February 24, 2012

ENGROSSED
HOUSE BILL No. 1222

DIGEST OF HB 1222 (Updated February 22, 2012 4:22 pm - DI 106)

Citations Affected: IC 4-5; IC 4-22; IC 9-13; IC 9-16; IC 9-17; IC 9-18; IC 9-22; IC 9-23; IC 9-29; IC 9-31; IC 9-32; IC 23-17; IC 23-19; IC 24-4; IC 24-5; IC 35-51; noncode.

Synopsis: Dealer services division of the secretary of state. Establishes a dealer services division (division) within the office of the secretary (secretary), and provides that the division administers and has jurisdiction over vehicle dealer (dealer) services (services). Establishes procedures: (1) for administration of the division; and (2) for judicial action concerning the division. Provides that a person who violates statutes or rules pertaining to services or an order issued by the secretary pertaining to services is subject to a civil penalty of up to $10,000 for each violation. Establishes the dealer enforcement account to be used to support the division. Provides for criminal penalties for certain violations pertaining to services. Establishes the motor vehicle sales advisory board. Specifies that a transfer dealer is not considered a dealer. Repeals and relocates language concerning dealer services and adds language concerning the requirements for a license for a wholesale dealer. Provides that an auto auctioneer is a person providing a place of business or facilities for the purchase and sale of more than

(Continued next page)

Effective: Upon passage; July 1, 2012.

Yarde, Wolkins

(SENATE SPONSORS — WYSS, ARNOLD)

January 9, 2012, read first time and referred to Committee on Roads and Transportation.
January 26, 2012, amended, reported — Do Pass.
January 30, 2012, read second time, amended, ordered engrossed.
January 31, 2012, engrossed. Read third time, passed. Yeas 96, nays 0.

SENATE ACTION

February 1, 2012, read first time and referred to Committee on Judiciary.
February 23, 2012, amended, reported favorably — Do Pass.

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Digest Continued

three motor vehicles a year. (Under current law the threshold is one motor vehicle a year.) Provides that the 30 business day period for purposes of determining whether a reasonable number of attempts have been made to correct a nonconformity is extended by any period of time during which repair services are unavailable due to civil unrest, fire, natural disasters, terrorist attacks, or acts of God or war. (Current law extends the time period only when repair services are unavailable due to a strike.) Provides that a dealer who fails to deliver a certificate of title within a certain timeframe is subject to certain civil penalties for violations that occur within a calendar year. Requires a dealer to make payment to a third party to satisfy any obligation secured by the vehicle within 10 days after the date of sale. Makes it a Class D felony for a disposal facility, a scrap metal processor, or an agent of a disposal facility or scrap metal processor to knowingly, intentionally, or recklessly buy a motor vehicle that is less than 15 model years old without a certificate of title for the motor vehicle. Makes it a Class A misdemeanor for a dealer or another person who sells, exchanges, or transfers at least five vehicles each year to sell, exchange, or transfer a rebuilt vehicle without disclosing in writing to the purchaser, customer, or transferee, before consummating the sale, exchange, or transfer, the fact that the vehicle is a rebuilt vehicle if the dealer or other person knows or should reasonably know the vehicle is a rebuilt vehicle. Permits the secretary of state to commence a proceeding to administratively dissolve a corporation if the secretary receives credible evidence that the corporation is engaged in illegal activity or activity not authorized by the corporation's articles of incorporation. Makes conforming amendments and technical corrections. Makes an appropriation.

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February 24, 2012

Second Regular Session 117th General Assembly (2012)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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ENGROSSED
HOUSE BILL No. 1222

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-5-1-11, AS AMENDED BY P.L.197-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 11. The secretary of state may adopt and enforce rules under IC 4-22-2 that are necessary to carry out

~~(1) IC 9-18-26;~~

~~(2) IC 9-22-4;~~

~~(3) IC 9-23-2;~~

~~(4) IC 9-23-3; and~~

~~(5) IC 9-23-6.~~ **IC 9-32.**

SECTION 2. IC 4-5-1-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 12. (a) The secretary of state shall establish a dealer services division within the office of the secretary of state. The dealer services division shall administer and has jurisdiction over IC 9-29-17 and IC 9-32.**

(b) The secretary of state shall appoint a director of the dealer services division established by subsection (a).

SECTION 3. IC 4-22-2-37.1, AS AMENDED BY P.L.229-2011, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.

(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.

(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.

(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.

(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(9) A rule adopted under IC 16-19-3-5 or IC 16-41-2-1 that the executive board of the state department of health declares is necessary to meet an emergency.

(10) An emergency rule adopted by the Indiana finance authority under IC 8-21-12.

(11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7 or IC 27-1-12.1.

(12) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(13) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by or other date provided by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency

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rule expires.

(14) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(15) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(16) An emergency rule adopted by the Indiana gaming commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3, IC 4-33-4-14, IC 4-33-22-12, or IC 4-35-4-2.

(17) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(20) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(22) An emergency rule adopted by the Indiana state board of animal health under IC 15-17-10-9.

(23) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34 (repealed).

(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33 (repealed).

(26) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) (repealed) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.

(28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.

(29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.

(30) A rule adopted by the Indiana finance authority:

(A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;

(B) under IC 8-15-2-17.2(a)(10):

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(i) establishing enforcement procedures; and

(ii) making assessments for failure to pay required tolls;

(C) under IC 8-15-2-14(a)(3) authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means; or

(D) to make other changes to existing rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5.

(31) An emergency rule adopted by the board of the Indiana health informatics corporation under IC 5-31-5-8.

(32) An emergency rule adopted by the department of child services under IC 31-25-2-21, IC 31-27-2-4, IC 31-27-4-2, or IC 31-27-4-3.

(33) An emergency rule adopted by the Indiana real estate commission under IC 25-34.1-2-5(15).

(34) A rule adopted by the department of financial institutions under IC 24-4.4-1-101 and determined necessary to meet an emergency.

(35) An emergency rule adopted by the state board of pharmacy regarding returning unused medication under IC 25-26-23.

(36) An emergency rule adopted by the department of local government finance under IC 6-1.1-12.6 or IC 6-1.1-12.8.

(37) An emergency rule adopted by the office of the secretary of family and social services or the office of Medicaid policy and planning concerning the following:

(A) Federal Medicaid waiver program provisions.

(B) Federal programs administered by the office of the secretary.

(38) An emergency rule adopted by the dealer services division of the office of the secretary of state under IC 9-32-2-1.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

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(d) After the document control number has been assigned, the agency shall submit the rule to the publisher for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the publisher shall:

(1) accept the rule for filing; and

(2) electronically record the date and time that the rule is accepted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in subsections (j), (k), and (l), a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. The extension period for a rule adopted under subsection (a)(28) may not exceed the period for which the original rule was in effect. A rule adopted under subsection (a)(13) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection (a)(13), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(8), (a)(12), (a)(19), (a)(20), (a)(21), (a)(29), or (a)(37) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this

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section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.

(m) A rule described in subsection (a)(5) or (a)(6) expires on the date the department is next required to issue a rule under the statute authorizing or requiring the rule.

SECTION 4. IC 9-13-2-1.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1.3. "Adjusted or net capitalized cost", for purposes of ~~IC 9-23-2.5,~~ **IC 9-32,** has the meaning set forth in ~~IC 9-23-2.5-1.~~ **IC 9-32-1-2.**

SECTION 5. IC 9-13-2-1.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 1.6. "Advisory board", for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-3.**

SECTION 6. IC 9-13-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. "Automobile auctioneer", ~~means a person who is engaged in the business of, or as a part of the auctioneer's business participates in, providing a place of business or facilities for the purchase and sale of motor vehicles on the basis of bids by persons acting for themselves or others. The term does not include a person acting only as an auctioneer under IC 25-6.1-1.~~ **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-4.**

SECTION 7. IC 9-13-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. "Automotive salvage rebuilder", ~~means a person, firm, limited liability company, corporation, or other legal entity engaged in the business:~~

~~(1) of acquiring salvage motor vehicles for the purpose of restoring, reconstructing, or rebuilding the vehicles; and~~

~~(2) in the resale of these vehicles for use on the highway.~~ **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-5.**

SECTION 8. IC 9-13-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 15. "Broker", for purposes of ~~IC 9-23-3,~~ **IC 9-32,** has the meaning set forth in ~~IC 9-23-3-0.3.~~ **IC 9-32-1-6.**

SECTION 9. IC 9-13-2-18.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 18.6. "Capitalized

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cost", for purposes of ~~IC 9-23-2.5,~~ **IC 9-32,** has the meaning set forth in ~~IC 9-23-2.5-2.~~ **IC 9-32-1-7.**

SECTION 10. IC 9-13-2-18.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 18.7. "Capitalized cost reduction", for purposes of ~~IC 9-23-2.5,~~ **IC 9-32,** has the meaning set forth in ~~IC 9-23-2.5-3.~~ **IC 9-32-1-8.**

SECTION 11. IC 9-13-2-19.5, AS ADDED BY P.L.226-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 19.5. "Charge back", for purposes of ~~IC 9-23-3,~~ **IC 9-32-12,** has the meaning set forth in ~~IC 9-23-3-0.2.~~ **IC 9-32-1-9.**

SECTION 12. IC 9-13-2-42, AS AMENDED BY P.L.93-2010, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 42. (a) "Dealer" means, except as otherwise provided in this section, a person who sells to the general public, including a person who sells directly by the Internet or other computer network, at least twelve (12) vehicles each year. ~~for delivery in Indiana.~~ The term includes a person who sells off-road vehicles. A dealer must have an established place of business that meets the minimum standards prescribed by the secretary of state under rules adopted under IC 4-22-2.

(b) The term does not include the following:

(1) A receiver, trustee, or other person appointed by or acting under the judgment or order of a court.

(2) A public officer while performing official duties.

~~(3) A person who is a dealer solely because of activities as a transfer dealer.~~

~~(4)~~ **(3)** An automotive mobility dealer.

(c) "Dealer", for purposes of IC 9-31, means a person that sells to the general public ~~for delivery in Indiana~~ at least six (6):

(1) boats; or

(2) trailers:

(A) designed and used exclusively for the transportation of watercraft; and

(B) sold in general association with the sale of watercraft;

per year.

SECTION 13. IC 9-13-2-43.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 43.3. "Director", for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-10.**

SECTION 14. IC 9-13-2-44 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 44. (a) "Disposal facility" means a person, firm, limited liability company, corporation,

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or other legal entity that, in the course of business, engages in the acquisition and dismantling or demolition of motor vehicles, motorcycles, semitrailers, or recreational vehicles or their remains for the benefit of reusable components and parts or recyclable materials.

(b) The term includes the following enterprises:

(1) An automotive salvage recycler.

(2) A hulk crusher.

~~(c) The term does not include~~ **(3)** A scrap metal processor.

SECTION 15. IC 9-13-2-45.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 45.5. "Division", for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-11.**

SECTION 16. IC 9-13-2-50 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 50. "Established place of business" means a permanent enclosed building or structure owned or leased for the purpose of ~~bartering,~~ **offering for sale,** trading, and selling motor vehicles. The term does not include a residence, tent, temporary stand, or permanent quarters temporarily occupied.

SECTION 17. IC 9-13-2-51 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 51. "Existing franchise", ~~means the franchise in effect on the date of a franchisee's death or incapacity.~~ **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-12.**

SECTION 18. IC 9-13-2-66.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 66.5. "Flood damaged vehicle", for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-13.**

SECTION 19. IC 9-13-2-67 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 67. "Franchise", ~~means an oral or a written agreement for a definite or an indefinite period in which a manufacturer or distributor grants to a dealer a right to use a trade name, trade or service mark, or related characteristic, and in which there is a community of interest in the marketing of motor vehicles or related services at retail or otherwise.~~ **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-14.**

SECTION 20. IC 9-13-2-68 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 68. "Franchisee", ~~means a dealer to whom a franchise is granted.~~ **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-15.**

SECTION 21. IC 9-13-2-69 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 69. "Franchisor", ~~means a manufacturer or distributor who grants a franchise to a dealer.~~

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for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-16.

SECTION 22. IC 9-13-2-90 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 90. "Labor rate", ~~means the hourly labor rate charged by a franchisee for service, filed periodically with the bureau as the bureau may require, and posted prominently in the franchisee's service department.~~ **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-17.**

SECTION 23. IC 9-13-2-92.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 92.5. "Lease agreement", for purposes of ~~IC 9-23-2.5,~~ **IC 9-32,** has the meaning set forth in ~~IC 9-23-2.5-4.~~ **IC 9-32-1-18.**

SECTION 24. IC 9-13-2-92.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 92.7. "Lease transaction", for purposes of ~~IC 9-23-2.5,~~ **IC 9-32,** has the meaning set forth in ~~IC 9-23-2.5-5.~~ **IC 9-32-1-19.**

SECTION 25. IC 9-13-2-105, AS AMENDED BY P.L.9-2010, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 105. (a) "Motor vehicle" means, except as otherwise provided in this section, a vehicle that is self-propelled. The term does not include a farm tractor, an implement of agriculture designed to be operated primarily in a farm field or on farm premises, or an electric personal assistive mobility device.

(b) "Motor vehicle", for purposes of IC 9-21, means:

(1) a vehicle except a motorized bicycle that is self-propelled; or

(2) a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(c) "Motor vehicle", for purposes of IC 9-19-10.5 and IC 9-25, means a vehicle that is self-propelled upon a highway in Indiana. The term does not include a farm tractor.

(d) "Motor vehicle", for purposes of IC 9-30-10, does not include a motorized bicycle.

(e) "Motor vehicle", for purposes of ~~IC 9-23-2 and IC 9-23-3,~~ **IC 9-32-13,** includes a semitrailer.

(f) "Motor vehicle", for purposes of IC 9-24-6, has the meaning set forth in 49 CFR 383.5 as in effect July 1, 2010.

SECTION 26. IC 9-13-2-114.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 114.5. "Offer to sell" means every attempt or offer to dispose of, or solicitation of an offer to purchase, a motor vehicle or interest in a motor vehicle for hire.**

SECTION 27. IC 9-13-2-149.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 149.5. **(a)** "Record", for

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purposes of IC 9-14-3.5, has the meaning set forth in IC 9-14-3.5-6.

(b) "Record", for purposes of IC 9-32-5-14, has the meaning set forth in IC 9-32-1-20.

SECTION 28. IC 9-13-2-151.5, AS AMENDED BY P.L.37-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 151.5. "Relevant market area", for purposes of ~~IC 9-23-3, means the following:~~

~~(1) With respect to a new motor vehicle dealer who plans to relocate the dealer's place of business in a county having a population of more than one hundred thousand (100,000), the area within a radius of six (6) miles of the intended site of the relocated dealer. The six (6) mile distance shall be determined by measuring the distance between the nearest surveyed boundary of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the relocated new motor vehicle dealer's place of business.~~

~~(2) With respect to a:~~

~~(A) proposed new motor vehicle dealer; or~~

~~(B) new motor vehicle dealer who plans to relocate the dealer's place of business in a county having a population that is not more than one hundred thousand (100,000);~~

~~the area within a radius of ten (10) miles of the intended site of the proposed or relocated dealer. The ten (10) mile distance shall be determined by measuring the distance between the nearest surveyed boundary line of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the proposed or relocated new motor vehicle dealer's principal place of business.~~

IC 9-32, has the meaning set forth in IC 9-32-1-21.

SECTION 29. IC 9-13-2-154.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 154.5. "Retail lessee", for purposes of ~~IC 9-23-2.5,~~ **IC 9-32,** has the meaning set forth in ~~IC 9-23-2.5-6.~~ **IC 9-32-1-22.**

SECTION 30. IC 9-13-2-154.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 154.6. "Retail lessor", for purposes of ~~IC 9-23-2.5,~~ **IC 9-32,** has the meaning set forth in ~~IC 9-23-2.5-7.~~ **IC 9-32-1-23.**

SECTION 31. IC 9-13-2-159.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 159.5. "Sale", for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-24.**

SECTION 32. IC 9-13-2-162 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 162. "Scrap metal processor" means a private, commercial, or governmental enterprise ~~having~~ **that engages in the acquisition of motor vehicles, motorcycles, semitrailers, or recreational vehicles or the remains of these vehicles and that has** facilities for processing iron, steel, or nonferrous scrap and whose principal product is scrap iron, scrap steel, or nonferrous scrap for sale for remelting purposes. ~~A scrap metal processor is not a disposal facility or a used parts dealer.~~

SECTION 33. IC 9-13-2-162.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 162.5. "Secretary", for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-25.**

SECTION 34. IC 9-13-2-185 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 185. "Transfer dealer", ~~means a person other than a dealer, manufacturer, or wholesale dealer who has the necessity of transferring a minimum of twelve (12) motor vehicles during a license year as part of the transfer dealer's primary business function.~~ **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-26.**

SECTION 35. IC 9-13-2-191.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 191.5. "Uniform time standards manual", for purposes of ~~IC 9-23-3,~~ **IC 9-32,** has the meaning set forth in ~~IC 9-23-3-0.5.~~ **IC 9-32-1-27.**

SECTION 36. IC 9-13-2-195 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 195. "Used parts dealer", ~~means a person who primarily buys, sells, barters, exchanges, or deals in used major component parts. The term does not include a scrap metal processor.~~ **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-28.**

SECTION 37. IC 9-13-2-199 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 199. "Wholesale dealer", ~~means a person who is engaged in the business of buying or selling motor vehicles for resale to other dealers, wholesale dealers, transfer dealers, or persons other than the general public.~~ **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-29.**

SECTION 38. IC 9-16-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. As used in this chapter, "qualified person" means any of the following:

(1) A motor club that is any of the following:

(A) A domestic corporation.

(B) A foreign corporation qualified to transact business in Indiana under IC 23-1 or IC 23-17.

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(2) A financial institution (as defined in IC 28-1-1-3).

(3) A new motor vehicle dealer licensed under ~~IC 9-23-2.~~ **IC 9-32-10.**

(4) Other persons, including persons licensed under ~~IC 9-23-2~~ **IC 9-32-10** that are not covered by subdivision (3), that the commission determines can meet the ~~standards adopted by the commission under IC 9-15-2-1(7) and the~~ requirements for partial service contractors under section 4.5 of this chapter.

SECTION 39. IC 9-17-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. If a certificate of title:

(1) has been previously issued for a vehicle in Indiana, an application for a certificate of title must be accompanied by the previously issued certificate of title, unless otherwise provided; or

(2) has not previously been issued for a vehicle in Indiana, an application for a certificate of title must be accompanied by a manufacturer's certificate of origin as provided in ~~IC 9-17-8,~~ **IC 9-32-4-3** unless otherwise provided.

SECTION 40. IC 9-17-3-3 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 3. (a) If a vehicle for which a certificate of title has been issued is sold or if the ownership of the vehicle is transferred in any manner other than by a transfer on death conveyance under section 9 of this chapter, the person who holds the certificate of title must do the following:~~

~~(1) Endorse on the certificate of title an assignment of the certificate of title with warranty of title, in a form printed on the certificate of title, with a statement describing all liens or encumbrances on the vehicle.~~

~~(2) Except as provided in subdivisions (4) and (5), deliver the certificate of title to the purchaser or transferee at the time of the sale or delivery to the purchaser or transferee of the vehicle, if the purchaser or transferee has made all agreed upon initial payments for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.~~

~~(3) Unless the vehicle is being sold or transferred to a dealer licensed under IC 9-23-2, complete all information concerning the purchase on the certificate of title, including, but not limited to:~~

~~(A) the name and address of the purchaser; and~~

~~(B) the sale price of the vehicle.~~

~~(4) In the case of a sale or transfer between vehicle dealers licensed by this state or another state, deliver the certificate of title within twenty-one (21) days after the date of the sale or~~

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~~transfer.~~

~~(5) Deliver the certificate of title to the purchaser or transferee within twenty-one (21) days after the date of sale or transfer to the purchaser or transferee of the vehicle, if all of the following conditions exist:~~

~~(A) The seller or transferor is a vehicle dealer licensed by the state under IC 9-23.~~

~~(B) The vehicle dealer is not able to deliver the certificate of title at the time of sale or transfer.~~

~~(C) The vehicle dealer reasonably believes that it will be able to deliver the certificate of title, without a lien or an encumbrance on the certificate of title, within the twenty-one (21) day period.~~

~~(D) The vehicle dealer provides the purchaser or transferee with an affidavit under section 3.1 of this chapter.~~

~~(E) The purchaser or transferee has made all agreed upon initial payments for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.~~

~~(b) A licensed dealer may offer for sale a vehicle for which the dealer does not possess a certificate of title, if the dealer can comply with subsection (a)(4) or (a)(5) at the time of the sale.~~

~~(c) A vehicle dealer who fails to deliver a certificate of title within the time specified under this section is subject to the following civil penalties:~~

~~(1) One hundred dollars ($100) for the first violation.~~

~~(2) Two hundred fifty dollars ($250) for the second violation.~~

~~(3) Five hundred dollars ($500) for all subsequent violations.~~

~~Payment shall be made to the secretary of state and deposited in the state general fund. In addition, if a purchaser or transferee does not receive a valid certificate of title within the time specified by this section, the purchaser or transferee shall have the right to return the vehicle to the vehicle dealer ten (10) days after giving the vehicle dealer written notice demanding delivery of a valid certificate of title and the dealer's failure to deliver a valid certificate of title within that ten (10) day period. Upon return of the vehicle to the dealer in the same or similar condition as delivered to the purchaser or transferee under this section, the vehicle dealer shall pay to the purchaser or transferee the purchase price plus sales taxes, finance expenses, insurance expenses, and any other amount paid to the dealer by the purchaser.~~

~~(d) For purposes of this subsection, "timely deliver", with respect to a third party, means to deliver to the purchaser or transferee with a postmark dated or hand delivered not more than ten (10) business days~~

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~~after there is no obligation secured by the vehicle. If the dealer's inability to timely deliver a valid certificate of title results from the acts or omissions of a third party who has failed to timely deliver a valid certificate of title to the dealer, the dealer is entitled to claim against the third party one hundred dollars ($100). If:~~

~~(1) the dealer's inability to timely deliver a valid certificate of title results from the acts or omissions of a third party who has failed to timely deliver the certificate of title in the third party's possession to the dealer; and~~

~~(2) the failure continues for ten (10) business days after the dealer gives the third party written notice of the failure;~~

~~the dealer is entitled to claim against the third party all damages sustained by the dealer in rescinding the dealer's sale with the purchaser or transferee, including the dealer's reasonable attorney's fees.~~

~~(e) If a vehicle for which a certificate of title has been issued by another state is sold or delivered, the person selling or delivering the vehicle must deliver to the purchaser or receiver of the vehicle a proper certificate of title with an assignment of the certificate of title in a form prescribed by the bureau.~~

~~(f) The original certificate of title and all assignments and subsequent reissues of the certificate of title shall be retained by the bureau and appropriately classified and indexed in the most convenient manner to trace title to the vehicle described in the certificate of title.~~

~~(g) A dealer shall make payment to a third party to satisfy any obligation secured by the vehicle within five (5) days after the date of sale.~~

SECTION 41. IC 9-17-3-3.1 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 3.1. The affidavit required by section 3(a)(5) of this chapter shall be printed in the following form:~~

~~STATE OF INDIANA)~~
~~) ss:~~
~~COUNTY OF _____)~~

~~I affirm under the penalties for perjury that all of the following are true:~~

~~(1) That I am a dealer licensed under IC 9-23.~~

~~(2) That I cannot deliver a valid certificate of title to the retail purchaser of the vehicle described in paragraph (3) at the time of sale of the vehicle to the retail purchaser. The identity of the previous seller or transferor is _____. Payoff of lien was made on (date)_____. I expect to deliver a valid and transferable certificate of title not later than~~

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~~(date)_____ from the (State of)_____ to the purchaser.~~

~~(3) That I will undertake reasonable commercial efforts to produce the valid certificate of title. The vehicle identification number is _____.~~

~~Signed _____, Dealer~~

~~By_____~~

~~Dated _____, ____~~

~~CUSTOMER ACKNOWLEDGES RECEIPT OF A COPY OF THIS AFFIDAVIT.~~

~~_____~~

~~_____~~

~~Customer Signature~~

~~NOTICE TO THE CUSTOMER~~

~~If you do not receive a valid certificate of title within the time specified by this affidavit, you have the right to return the vehicle to the vehicle dealer ten (10) days after giving the vehicle dealer written notice demanding delivery of a valid certificate of title and after the vehicle dealer's failure to deliver a valid certificate of title within that ten (10) day period. Upon return of the vehicle to the vehicle dealer in the same or similar condition as when it was delivered to you, the vehicle dealer shall pay you the purchase price plus sales taxes, finance expenses, insurance expenses, and any other amount that you paid to the vehicle dealer.~~

~~If a lien is present on the previous owner's certificate of title, it is the responsibility of the third party lienholder to timely deliver the certificate of title in the third party's possession to the dealer not more than ten (10) business days after there is no obligation secured by the vehicle. If the dealer's inability to deliver a valid certificate of title to you within the above-described ten (10) day period results from the acts or omissions of a third party who has failed to timely deliver the certificate of title in the third party's possession to the dealer, the dealer may be entitled to claim against the third party the damages allowed by law.~~

SECTION 42. IC 9-17-3-7, AS AMENDED BY P.L.131-2008, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. ~~(a)~~ This section does not apply to section 5 of this chapter.

~~(b) Except as provided in subsection (c),~~ A person who violates this chapter commits a Class C infraction.

~~(c) A person who knowingly or intentionally violates:~~

~~(1) section 3(a)(1), 3(a)(2), 3(a)(4), or 3(a)(5) of this chapter commits a Class B misdemeanor; or~~

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~~(2) section 3(a)(3) of this chapter commits:~~

~~(A) a Class A misdemeanor for the first violation; or~~

~~(B) a Class D felony for the second violation or any subsequent violation.~~

SECTION 43. IC 9-17-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. If a certificate of title:

(1) has been previously issued for a manufactured home in Indiana, an application for a certificate of title must be accompanied by the certificate of title; or

(2) has not previously been issued for a manufactured home in Indiana, the application must be accompanied by a manufacturer's certificate of origin as provided in ~~IC 9-17-8.~~ **IC 9-32-4-3.**

SECTION 44. IC 9-17-8 IS REPEALED [EFFECTIVE JULY 1, 2012]. (Manufacturers, Converter Manufacturers, and Dealers; Manufacturers' Certificates of Origin).

SECTION 45. IC 9-18-2-26, AS AMENDED BY P.L.184-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 26. (a) License plates shall be displayed as follows:

(1) For a motorcycle, trailer, semitrailer, or recreational vehicle, upon the rear of the vehicle, except as provided in subdivision (4).

(2) For a tractor or dump truck, upon the front of the vehicle.

(3) For every other vehicle, upon the rear of the vehicle, except as provided in subdivision (4).

(4) For a truck with a rear mounted forklift or a mechanism to carry a rear mounted forklift or implement, upon the front of the vehicle.

(b) A license plate shall be securely fastened, in a horizontal position, to the vehicle for which the plate is issued:

(1) to prevent the license plate from swinging;

(2) at a height of at least twelve (12) inches from the ground, measuring from the bottom of the license plate;

(3) in a place and position that are clearly visible;

(4) maintained free from foreign materials and in a condition to be clearly legible; and

(5) not obstructed or obscured by tires, bumpers, accessories, or other opaque objects.

An interim license plate must be displayed in the manner required by IC 9-32-5-11(f).

(c) The bureau may adopt rules the bureau considers advisable to enforce the proper mounting and securing of license plates on vehicles

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consistent with this chapter.

SECTION 46. IC 9-18-26 IS REPEALED [EFFECTIVE JULY 1, 2012]. (Dealer License Plates).

SECTION 47. IC 9-22-3-18.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 18.5. (a) This section does not apply to a person who sells, exchanges, or transfers golf carts.**

(b) A seller that is:

(1) a dealer; or

(2) another person who sells, exchanges, or transfers at least five (5) vehicles each year;

may not sell, exchange, or transfer a rebuilt vehicle without disclosing in writing to the purchaser, customer, or transferee, before consummating the sale, exchange, or transfer, the fact that the vehicle is a rebuilt vehicle if the dealer or other person knows or should reasonably know the vehicle is a rebuilt vehicle.

SECTION 48. IC 9-22-3-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 33. **(a)** A person who violates section 4, 5, 6, 7, 8, or 9 of this chapter commits a Class D felony.

(b) A person who violates section 18.5 of this chapter commits a Class A misdemeanor.

SECTION 49. IC 9-22-4 IS REPEALED [EFFECTIVE JULY 1, 2012]. (Licensing of Vehicle Salvaging).

SECTION 50. IC 9-22-5-16 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 16. (a) This section does not apply to a person who sells, exchanges, or transfers golf carts.~~

~~(b) A seller that is:~~

~~(1) a dealer; or~~

~~(2) another person who sells, exchanges, or transfers at least five (5) vehicles each year;~~

~~may not sell, exchange, or transfer a rebuilt vehicle without disclosing in writing to the purchaser, customer, or transferee, before consummating the sale, exchange, or transfer, the fact that the vehicle is a rebuilt vehicle if the dealer or other person knows or should reasonably know the vehicle is a rebuilt vehicle.~~

SECTION 51. IC 9-22-5-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 18. (a) A disposal facility, a scrap metal processor, or an agent of a disposal facility or scrap metal processor may purchase a motor vehicle without a certificate of title for the motor vehicle if:**

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(1) the motor vehicle is at least fifteen (15) model years old;
(2) the purchase is solely for the purpose of dismantling or wrecking the motor vehicle for the recovery of scrap metal or the sale of parts; and
(3) the disposal facility or scrap metal processor records all purchase transactions of vehicles as required in subsection (b).

(b) A disposal facility or scrap metal processor shall maintain the following information with respect to each motor vehicle purchase transaction to which the disposal facility or scrap metal processor is a party for at least two (2) years following the date of the purchase transaction:

(1) The name and address of any secondary metals recycler or salvage yard.
(2) The name, initials, or other identifying symbol of the person entering the information.
(3) The date of the purchase transaction.
(4) A description of the motor vehicle that was the subject of the purchase transaction, including the make and model of the motor vehicle, if practicable.
(5) The vehicle identification number of the motor vehicle.
(6) The amount of consideration given for the motor vehicle.
(7) A written statement signed by the seller or the seller's agent certifying that the seller or the seller's agent has the lawful right to sell and dispose of the motor vehicle.
(8) The name and address of the person from whom the motor vehicle is being purchased.
(9) A photocopy or electronic scan of one (1) of the following forms of identification issued to the seller or the seller's agent:

(A) A current and valid driver's license.
(B) An identification card issued under IC 9-24-16-1 or a similar card issued under the laws of another state or the federal government.
(C) A government issued document bearing an image of the seller or seller's agent, as applicable.

For purposes of complying with this subdivision, a disposal facility or scrap metal processor is not required to make a separate copy of the seller's or seller's agent's identification for each purchase transaction involving the seller or seller's agent but may instead refer to a copy maintained in reference to a particular purchase transaction.

(c) A disposal facility or scrap metal processor may not

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complete a purchase transaction in the absence of the information required under subsection (b)(9).

(d) A disposal facility, a scrap metal processor, or an agent of a disposal facility or scrap metal processor that knowingly, intentionally, or recklessly buys a motor vehicle that is less than fifteen (15) model years old without a certificate of title for the motor vehicle commits a Class D felony.

SECTION 52. IC 9-23-0.7 IS REPEALED [EFFECTIVE JULY 1, 2012]. (Delegation of the Rights, Duties, and Obligations of the Secretary of State).

SECTION 53. IC 9-23-2 IS REPEALED [EFFECTIVE JULY 1, 2012]. (Regulation of Vehicle Merchandising).

SECTION 54. IC 9-23-2.5 IS REPEALED [EFFECTIVE JULY 1, 2012]. (Disclosures Required in Motor Vehicle Leases).

SECTION 55. IC 9-23-3 IS REPEALED [EFFECTIVE JULY 1, 2012]. (Unfair Practices).

SECTION 56. IC 9-23-4 IS REPEALED [EFFECTIVE JULY 1, 2012]. (Damage to New Motor Vehicles).

SECTION 57. IC 9-23-5 IS REPEALED [EFFECTIVE JULY 1, 2012]. (Succession to Franchise by Designated Family Members).

SECTION 58. IC 9-23-6 IS REPEALED [EFFECTIVE JULY 1, 2012]. (Penalties and Remedies).

SECTION 59. IC 9-29-5-14 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 14. (a) The fee for the first two (2) sets of license plates for a manufacturer or dealer is forty dollars ($40).~~

~~(b) The fee for each additional set of license plates for a manufacturer or dealer is fifteen dollars ($15).~~

SECTION 60. IC 9-29-5-14.5 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 14.5. The fee for a research and development license plate for a manufacturer of a vehicle subcomponent system under IC 9-18-26-2.5(a) is twenty dollars ($20). There is no fee in addition to the regular registration fee for a research and development license plate for a manufacturer of a vehicle subcomponent system.~~

SECTION 61. IC 9-29-5-15 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 15. (a) The fee for the first two (2) sets of license plates for a manufacturer or dealer of motorcycles is fifteen dollars ($15).~~

~~(b) The fee for each additional set of license plates for a motorcycle manufacturer or dealer is seven dollars and fifty cents ($7.50).~~

SECTION 62. IC 9-29-5-39 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 39. The fee for the issuance of an interim dealer license plate under IC 9-18-26 is one dollar ($1).~~

SECTION 63. IC 9-29-5-43 IS REPEALED [EFFECTIVE JULY 1,

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2012]. ~~Sec. 43. (a) Except as otherwise provided by this chapter, subsection (b), subsection (c), and IC 9-29-1-2, registration fees collected under this chapter shall be paid into the state general fund for credit to the motor vehicle highway account.~~

~~(b) Fees collected under this chapter for license plates issued under IC 9-18-26 by the secretary of state shall be deposited as follows:~~

~~(1) Thirty percent (30%) to the dealer compliance account established by IC 9-23-2-18.~~

~~(2) Seventy percent (70%) to the motor vehicle highway account.~~

~~(c) Notwithstanding subsection (b), fees collected under this chapter for interim license plates issued under IC 9-18-26-10 by the secretary of state shall be deposited as follows:~~

~~(1) Ninety percent (90%) to the dealer compliance account established by IC 9-23-2-18.~~

~~(2) Ten percent (10%) to the motor vehicle highway account.~~

SECTION 64. IC 9-29-7-3 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 3. The fee for an original license under IC 9-22-4 is ten dollars ($10).~~

SECTION 65. IC 9-29-7-4 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 4. The fee for a supplemental license under IC 9-22-4 is five dollars ($5).~~

SECTION 66. IC 9-29-7-5 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 5. The fee for a renewal license under IC 9-22-4 is ten dollars ($10).~~

SECTION 67. IC 9-29-7-6 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 6. A licensing fee that is submitted with an application under IC 9-22-4 shall be returned to the applicant if the application is rejected by the secretary of state.~~

SECTION 68. IC 9-29-7-7, AS AMENDED BY P.L.110-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. The revenues from the

~~(1)~~ certificate of salvage titles collected under IC 9-22-3 ~~and~~

~~(2) license fees collected under IC 9-22-4;~~

shall be deposited in the motor vehicle highway account.

SECTION 69. IC 9-29-8 IS REPEALED [EFFECTIVE JULY 1, 2012]. (Fees Under IC 9-23).

SECTION 70. IC 9-29-15-7 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 7. (a) The fees under IC 9-31-4 for a boat dealer's license for each full year are as follows:~~

~~(1) For a Class A dealer, thirty dollars ($30) for the first place of business, plus ten dollars ($10) for each additional location.~~

~~(2) For a Class B dealer, twenty dollars ($20).~~

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~~(b) The secretary of state retains the fees collected under subsection (a).~~

SECTION 71. IC 9-29-15-8 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 8. (a) The fee for a change of business name or location under IC 9-31-4-4 is five dollars ($5).~~

~~(b) The fee is retained by the secretary of state.~~

SECTION 72. IC 9-29-17 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

Chapter 17. Fees Under IC 9-32

Sec. 1. (a) The fee for the first two (2) sets of license plates under IC 9-32-5-1 for a manufacturer or dealer is forty dollars ($40).

(b) The fee for each additional set of license plates under IC 9-32-5-5 for a manufacturer or dealer is fifteen dollars ($15).

(c) The secretary of state retains the fees collected under subsections (a) and (b).

Sec. 2. (a) The fee for a research and development license plate for a manufacturer of a vehicle subcomponent system under IC 9-32-5-3 is twenty dollars ($20). There is no fee in addition to the regular registration fee for a research and development license plate for a manufacturer of a vehicle subcomponent system.

(b) The secretary of state retains the fees collected under subsection (a).

Sec. 3. (a) The fee for the first two (2) sets of license plates under IC 9-32-5-1 for a manufacturer or dealer of motorcycles is fifteen dollars ($15).

(b) The fee for each additional set of license plates under IC 9-32-5-5 for a motorcycle manufacturer or dealer is seven dollars and fifty cents ($7.50).

(c) The secretary of state retains the fees collected under subsections (a) and (b).

Sec. 4. (a) The fee for the issuance of an interim dealer license plate under IC 9-32-5-11 is one dollar ($1).

(b) The secretary of state retains the fees collected under subsection (a).

Sec. 5. (a) The fees under IC 9-32-7-2 for a boat dealer's license for each full year are as follows:

(1) For a Class A dealer, thirty dollars ($30) for the first place of business, plus ten dollars ($10) for each additional location.

(2) For a Class B dealer, twenty dollars ($20).

(b) The secretary of state retains the fees collected under subsection (a).

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Sec. 6. (a) The fee for a change of business name or location under IC 9-32-7-4 is five dollars ($5).

(b) The secretary of state retains the fees collected under subsection (a).

Sec. 7. (a) The fee for an original license under IC 9-32-8 is ten dollars ($10).

(b) The fee for a supplemental license under IC 9-32-8 is five dollars ($5).

(c) The fee for a renewal license under IC 9-32-8 is ten dollars ($10).

(d) A licensing fee that is submitted with an application under IC 9-32-8 shall be returned to the applicant if the application is rejected by the secretary of state.

Sec. 8. The fee for a license for a manufacturer or a distributor under IC 9-32-10-1 is thirty-five dollars ($35), including a factory branch as set forth in IC 9-13-2-97(b)(1). The fees collected shall be deposited as set forth in IC 9-32-6-3.

Sec. 9. The fee for a license for a dealer or an automobile auctioneer under IC 9-32-10-1 is:

(1) thirty dollars ($30) for the first place of business; and

(2) an additional ten dollars ($10) for each location not immediately adjacent to the first place of business.

The fees collected shall be deposited as set forth in IC 9-32-6-3.

Sec. 10. The fee for a factory representative, a distributor representative, a wholesale dealer, a transfer dealer, a converter manufacturer, or an automotive mobility dealer under IC 9-32-10-1 is twenty dollars ($20). The fee for an automotive mobility dealer who:

(1) buys or sells vehicles, or both;

(2) sells, installs, or services, offers to sell, install, or service, or solicits or advertises the sale, installation, or servicing of equipment or modifications specifically designed to facilitate use or operation of a vehicle by an individual who is disabled or aged; or

(3) performs acts described in both subdivisions (1) and (2);

is twenty dollars ($20). The fees collected shall be deposited as set forth in IC 9-32-6-3.

Sec. 11. The fee for a business name or location change under IC 9-32-10-4 is five dollars ($5).

Sec. 12. The license fee for each offsite license issued under IC 9-32-10-9 is twenty-five dollars ($25).

Sec. 13. The permit fee for a special event permit issued under

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IC 9-32-10-16 is two hundred fifty dollars ($250).

Sec. 14. (a) Except as otherwise provided in subsection (b), subsection (c), and IC 9-29-1-2, registration fees collected under IC 9-32 and fees collected under section 7 of this chapter shall be paid into the state general fund for credit to the motor vehicle highway account.

(b) Fees collected under this chapter for license plates issued under IC 9-32-5 by the secretary of state shall be deposited as follows:

(1) Thirty percent (30%) to the dealer compliance account established by IC 9-32-6-1.

(2) Seventy percent (70%) to the motor vehicle highway account.

(c) Notwithstanding subsection (b), fees collected under this chapter for interim license plates issued under IC 9-32-5-11 by the secretary of state shall be deposited as follows:

(1) Ninety percent (90%) to the dealer compliance account established by IC 9-32-6-1.

(2) Ten percent (10%) to the motor vehicle highway account.

Sec. 15. The revenue from the license fees collected under IC 9-32-8 shall be deposited in the motor vehicle highway account.

Sec. 16. The revenue from sections 11 through 13 of this chapter shall be deposited in the dealer compliance account established by IC 9-32-6-1.

SECTION 73. IC 9-31-3-5, AS AMENDED BY P.L.106-2008, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. A motorboat that has never been registered in Indiana and that is purchased from a dealer licensed by the secretary of state under ~~IC 9-31-4~~ **IC 9-32-7** may be operated on the waters of Indiana for a period of thirty-one (31) days from the date of purchase if the operator has in the operator's possession the following:

(1) A bill of sale from the dealer giving the purchaser's name and address, the date of purchase, and the make and type of boat or the hull identification number.

(2) A temporary permit displayed on the forward portion of the boat, as provided in section 6 of this chapter.

SECTION 74. IC 9-31-3-19, AS AMENDED BY P.L.106-2008, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 19. A dealer licensed by the secretary of state under ~~IC 9-31-4~~ **IC 9-32-7-2** may, upon application to the secretary of state, obtain a certificate of number for use in the testing or demonstrating of motorboats upon payment of the fee prescribed under

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IC 9-29-15-6 for each registration number. The secretary of state shall issue one (1) plate for each certificate of number assigned under this section. The plate must be displayed within a boat that is being tested or demonstrated while the boat is being tested or demonstrated.

SECTION 75. IC 9-31-4 IS REPEALED [EFFECTIVE JULY 1, 2012]. (Boat Dealers).

SECTION 76. IC 9-32 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

ARTICLE 32. DEALER SERVICES

Chapter 0.5. Application

Sec. 1. Nothing in this article shall be construed to limit the authority of the bureau to administer this title.

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Adjusted or net capitalized cost"means the capitalized cost, less any capitalized cost reduction payments made by a retail lessee at the inception of a lease agreement. The adjusted or net capitalized cost is the basis for calculating the amount of a retail lessee's periodic payment under a lease agreement.

Sec. 3. "Advisory board" means the motor vehicle sales advisory board established by IC 9-32-9-1.

Sec. 4. "Automobile auctioneer" means a person who is engaged in providing a place of business or facilities for the purchase and sale of more than three (3) motor vehicles, on the basis of bids by persons acting for themselves or others, per calendar year. The term includes an auctioneer that as part of the business of the auctioneer participates in providing a place of business or facilities for the purchase and sale of motor vehicles on the basis of bids by persons acting for themselves or others. The term does not include a person acting only as an auctioneer under IC 25-6.1-1.

Sec. 5. "Automotive salvage rebuilder" means a person, firm, limited liability company, corporation, or other legal entity engaged in the business:

(1) of acquiring salvage motor vehicles for the purpose of restoring, reconstructing, or rebuilding the vehicles; and

(2) of reselling these vehicles for use on the highway.

Sec. 6. "Broker" means a person that, for a fee, a commission, or other valuable consideration, arranges or offers to arrange a transaction involving the sale, for purposes other than resale, of a new or used motor vehicle and who is not:

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(1) a dealer or an employee of a dealer;
(2) a distributor or an employee of a distributor; or
(3) at any point in the transaction, the bona fide owner of the vehicle involved in the transaction.

Sec. 7. (a) "Capitalized cost" means the amount that, after deducting any capitalized cost reduction, serves as the basis for determining the base lease payment, which is the part of the periodic lease payment that is the sum of:
(1) the average periodic lease charge; and
(2) the average periodic depreciation.

(b) For a single payment lease, the base lease payment is the sum of:
(1) the average periodic lease charge multiplied by the number of months in the term of the lease; and
(2) the average periodic depreciation multiplied by the number of months in the term of the lease.

(c) The capitalized cost may include any of the following:
(1) Taxes.
(2) Registration fees.
(3) License fees.
(4) Insurance charges.
(5) Charges for guaranteed auto protection or GAP coverage.
(6) Charges for service contracts and extended warranties.
(7) Fees and charges for accessories and for installing accessories.
(8) Charges for delivery, service, and repair.
(9) Administrative fees, acquisition fees, and all fees or charges for providing services incidental to the lease agreement.
(10) The unpaid balance of an amount financed under an outstanding motor vehicle loan agreement or motor vehicle retail installment contract with respect to a motor vehicle used as a trade-in vehicle.
(11) The unpaid part of the early termination obligation under an outstanding lease agreement.
(12) The first periodic payment due at the inception of the lease agreement, if not otherwise paid by the retail lessee.

Sec. 8. "Capitalized cost reduction" means a payment made by cash, check, credit card debit, net vehicle trade-in, rebate, or other similar means in the nature of a down payment or credit, made by a retail lessee at the inception of a lease agreement, for the purpose of reducing the capitalized cost and does not include any periodic

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payments received by the retail lessor at the inception of the lease agreement.

Sec. 9. "Charge back" means a manufacturer induced return of incentive payments to a manufacturer by a dealer. The term includes a manufacturer drawing funds from an account of a dealer.

Sec. 10. "Director" means the director of the dealer services division within the office of the secretary of state appointed under IC 4-5-1-12(b).

Sec. 11. "Division" means the dealer services division within the office of the secretary of state established by IC 4-5-1-12(a).

Sec. 12. "Existing franchise"means the franchise in effect on the date of a franchisee's death or incapacity.

Sec. 13. (a) "Flood damaged vehicle" means a passenger motor vehicle that satisfies either of the following:

(1) The vehicle has been acquired by an insurance company as part of a damage settlement due to water damage.

(2) The vehicle has been submerged in water to the point that rising water has reached over the door sill, has entered the passenger or trunk compartment, and has exposed any electrical, computerized, or mechanical component to water.

(b) The term does not include a passenger motor vehicle that an inspection conducted by an insurance adjuster or estimator, a motor vehicle repairer, or a motor vehicle dealer determines:

(1) has no electrical, computerized, or mechanical components that were damaged by water; or

(2) has one (1) or more electrical, computerized, or mechanical components that were damaged by water, and all such damaged components have been repaired or replaced.

Sec. 14. "Franchise" means an oral or a written agreement for a definite or an indefinite period in which a manufacturer or distributor grants to a dealer a right to use a trade name, trade or service mark, or related characteristic, and in which there is a community of interest in the marketing of motor vehicles or related services at retail or otherwise.

Sec. 15. "Franchisee" means a dealer to whom a franchise is granted.

Sec. 16. "Franchisor" means a manufacturer or distributor who grants a franchise to a dealer.

Sec. 17. "Labor rate" means the hourly labor rate charged by a franchisee for service, filed periodically with the division as the division may require, and posted prominently in the franchisee's

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service department.

Sec. 18. "Lease agreement" means a written agreement entered into in Indiana for the transfer from a retail lessor to a retail lessee of the right to possess and use a motor vehicle in exchange for consideration for a scheduled term exceeding four (4) months, whether or not the retail lessee has the option to purchase or otherwise become the owner of the motor vehicle upon expiration of the agreement. The term does not include an agreement that covers an absolute sale, a sale pending approval, or a retail installment sale.

Sec. 19. "Lease transaction" means a presentation made to a retail lessee concerning a motor vehicle, including a sales presentation or a document presented to the retail lessee, resulting in the execution of a lease agreement.

Sec. 20. "Record" includes, but is not limited to, the following:

(1) Bills of sale.

(2) Finance agreements.

(3) Titles.

(4) Inventory records.

(5) Sales receipts from auctions.

(6) Form ST-108 (department of state revenue certificate of gross retail or use tax paid on the purchase of a motor vehicle or watercraft).

(7) Interim plate log.

Sec. 21. "Relevant market area" means the following:

(1) With respect to a new motor vehicle dealer who plans to relocate the dealer's place of business in a county having a population of more than one hundred thousand (100,000), the area within a radius of six (6) miles of the intended site of the relocated dealer. The six (6) mile distance shall be determined by measuring the distance between the nearest surveyed boundary of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the relocated new motor vehicle dealer's place of business.

(2) With respect to a:

(A) proposed new motor vehicle dealer; or

(B) new motor vehicle dealer who plans to relocate the dealer's place of business in a county having a population that is not more than one hundred thousand (100,000);

the area within a radius of ten (10) miles of the intended site of the proposed or relocated dealer. The ten (10) mile distance shall be determined by measuring the distance between the

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nearest surveyed boundary line of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the proposed or relocated new motor vehicle dealer's principal place of business.

Sec. 22. "Retail lessee" means an individual who executes a lease agreement for a motor vehicle from a retail lessor primarily for personal, family, or household purposes.

Sec. 23. "Retail lessor" means a person who regularly engages in the business of selling or leasing motor vehicles and who offers or arranges a lease agreement for a motor vehicle. The term includes an agent or affiliate who acts on behalf of the retail lessor and excludes any assignee of the lease agreement.

Sec. 24. "Sale" includes every contract of sale, contract to sell, or disposition of a motor vehicle or interest in a motor vehicle for value.

Sec. 25. "Secretary" refers to the secretary of state holding office as set forth in IC 4-5-1-1.

Sec. 26. "Transfer dealer" means a person other than a dealer, manufacturer, or wholesale dealer who has the necessity of transferring at least twelve (12) motor vehicles during a license year as part of the transfer dealer's primary business function.

Sec. 27. "Uniform time standards manual" means a schedule established by a manufacturer or distributor setting forth the time allowances for the diagnosis and performance of warranty work and service.

Sec. 28. "Used parts dealer" means a person who primarily buys, sells, barters, exchanges, or deals in used major component parts. The term does not include a scrap metal processor.

Sec. 29. "Wholesale dealer" means a person who is engaged in the business of buying or selling motor vehicles for resale to other dealers, wholesale dealers, transfer dealers, or persons other than the general public.

Chapter 2. Powers and Duties of the Division

Sec. 1. The secretary may delegate any or all of the rights, duties, or obligations of the secretary under this article to:

(1) the director; or

(2) another designee under the supervision and control of the secretary.

The individual delegated has the authority to adopt and enforce rules under IC 4-22-2 as the secretary under IC 4-5-1-11. The secretary may also adopt emergency rules under IC 4-22-2-37.1 to carry out the secretary's duties under this article.

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Sec. 2. The secretary shall do the following:

(1) Administer and enforce:

(A) this article concerning the division; and

(B) the policies and procedures of the division.

(2) Organize the division in the manner necessary to carry out the duties of the division.

(3) Perform other duties as required by the division.

Chapter 3. Obtaining, Expiration, Replacement, and Transfer of Certificate of Title

Sec. 1. (a) If a vehicle for which a certificate of title has been issued is sold or if the ownership of the vehicle is transferred in any manner other than by a transfer on death conveyance under IC 9-17-3-9, the person who holds the certificate of title must do the following:

(1) Endorse on the certificate of title an assignment of the certificate of title with warranty of title, in a form printed on the certificate of title, with a statement describing all liens or encumbrances on the vehicle.

(2) Except as provided in subdivisions (4) and (5), deliver the certificate of title to the purchaser or transferee at the time of the sale or delivery to the purchaser or transferee of the vehicle, if the purchaser or transferee has made all agreed upon initial payments for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.

(3) Complete all information concerning the purchase on the certificate of title, including, but not limited to:

(A) the name and address of the purchaser; and

(B) the sale price of the vehicle.

(4) In the case of a sale or transfer between vehicle dealers licensed by this state or another state, deliver the certificate of title within twenty-one (21) days after the date of the sale or transfer.

(5) Deliver the certificate of title to the purchaser or transferee within twenty-one (21) days after the date of sale or transfer to the purchaser or transferee of the vehicle, if all of the following conditions exist:

(A) The seller or transferor is a vehicle dealer licensed by the state under this article.

(B) The vehicle dealer is not able to deliver the certificate of title at the time of sale or transfer.

(C) The vehicle dealer provides the purchaser or transferee with an affidavit under section 2 of this chapter.

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(D) The purchaser or transferee has made all agreed upon initial payments for the vehicle, including delivery of a trade-in vehicle without hidden or undisclosed statutory liens.

(b) A licensed dealer may offer for sale a vehicle for which the dealer does not possess a certificate of title, if the dealer can comply with subsection (a)(4) or (a)(5) at the time of the sale.

(c) A vehicle dealer who fails to deliver a certificate of title within the time specified under this section is subject to the following civil penalties:

(1) One hundred dollars ($100) for the first violation in a calendar year.

(2) Two hundred fifty dollars ($250) for the second violation in a calendar year.

(3) Five hundred dollars ($500) for all subsequent violations in a calendar year.

Payment shall be made to the secretary of state and deposited in the dealer enforcement account established under IC 9-32-6-2.

(d) If a purchaser or transferee does not receive a valid certificate of title within the time specified by this section, the purchaser or transferee has the right to return the vehicle to the vehicle dealer ten (10) days after giving the vehicle dealer written notice demanding delivery of a valid certificate of title and the dealer's failure to deliver a valid certificate of title within that ten (10) day period. Upon return of the vehicle to the dealer in the same or similar condition as delivered to the purchaser or transferee under this section, the vehicle dealer shall pay to the purchaser or transferee the purchase price plus sales taxes, finance expenses, insurance expenses, and any other amount paid to the dealer by the purchaser.

(e) For purposes of this subsection, "timely deliver", with respect to a third party, means to deliver to the purchaser or transferee with a postmark dated or hand delivered not more than ten (10) business days after there is no obligation secured by the vehicle. If the dealer's inability to timely deliver a valid certificate of title results from the acts or omissions of a third party who has failed to timely deliver a valid certificate of title to the dealer, the dealer is entitled to claim against the third party one hundred dollars ($100). If:

(1) the dealer's inability to timely deliver a valid certificate of title results from the acts or omissions of a third party who has failed to timely deliver the certificate of title in the third

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party's possession to the dealer; and

(2) the failure continues for ten (10) business days after the dealer gives the third party written notice of the failure;

the dealer is entitled to claim against the third party all damages sustained by the dealer in rescinding the dealer's sale with the purchaser or transferee, including the dealer's reasonable attorney's fees.

(f) If a vehicle for which a certificate of title has been issued by another state is sold or delivered, the person selling or delivering the vehicle shall deliver to the purchaser or receiver of the vehicle a proper certificate of title with an assignment of the certificate of title in a form prescribed by the bureau.

(g) The original certificate of title and all assignments and subsequent reissues of the certificate of title shall be retained by the bureau and appropriately classified and indexed in the most convenient manner to trace the title to the vehicle described in the certificate of title.

(h) A dealer shall make payment to a third party to satisfy any obligation secured by the vehicle within ten (10) days after the date of sale.

Sec. 2. The affidavit required by section 1(a)(5)(C) of this chapter shall be printed in the following form:

STATE OF INDIANA)
) ss:
COUNTY OF _____)

I affirm under the penalties for perjury that all of the following are true:

(1) That I am a dealer licensed under IC 9-32.

(2) That I cannot deliver a valid certificate of title to the retail purchaser of the vehicle described in paragraph (3) at the time of sale of the vehicle to the retail purchaser. The identity of the previous seller or transferor is _____. Payoff of lien was made on (date)_____. I expect to deliver a valid and transferable certificate of title not later than (date)_____ from the State of (state)_____ to the purchaser.

(3) That I will undertake reasonable commercial efforts to produce the valid certificate of title. The vehicle identification number is _____.

Signed _____, Dealer
By_____
Dated _____, ____

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CUSTOMER ACKNOWLEDGES RECEIPT OF A COPY OF THIS AFFIDAVIT.

_____

Customer Signature

NOTICE TO THE CUSTOMER

If you do not receive a valid certificate of title within twenty-one (21) days from the date of sale, you have the right to return the vehicle to the vehicle dealer ten (10) days after giving the vehicle dealer written notice demanding delivery of a valid certificate of title and after the vehicle dealer's failure to deliver a valid certificate of title within that ten (10) day period. Upon return of the vehicle to the vehicle dealer in the same or similar condition as when it was delivered to you, the vehicle dealer shall pay you the purchase price plus sales taxes, finance expenses, insurance expenses, and any other amount that you paid to the vehicle dealer. If a lien is present on the previous owner's certificate of title, it is the responsibility of the third party lienholder to timely deliver the certificate of title in the third party's possession to the dealer not more than ten (10) business days after there is no obligation secured by the vehicle. If the dealer's inability to deliver a valid certificate of title to you within the ten (10) day period described above results from the acts or omissions of a third party who has failed to timely deliver the certificate of title in the third party's possession to the dealer, the dealer may be entitled to claim against the third party the damages allowed by law.

Chapter 4. Manufacturers, Converter Manufacturers, and Dealers; Manufacturers' Certificates of Origin

Sec. 1. This chapter does not apply to an off-road vehicle.

Sec. 2. A manufacturer, a converter manufacturer, an automotive mobility dealer, a dealer, or other person may not sell or otherwise dispose of a new motor vehicle to another person, to be used by the other person for purposes of display or resale, without delivering to the other person a manufacturer's certificate of origin under this chapter that indicates the assignments of the certificate of origin necessary to show the ownership of the title to a person who purchases the motor vehicle.

Sec. 3. A person may not purchase or acquire a new motor vehicle without obtaining a valid manufacturer's certificate of origin from the seller of the motor vehicle.

Sec. 4. (a) Except as provided in subsection (b), certificates of origin and assignments of certificates of origin must be in a form:

(1) prescribed by the bureau; or

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(2) approved by the bureau.

(b) A manufacturer's certificate of origin for a low speed vehicle must indicate that the motor vehicle is a low speed vehicle.

Sec. 5. A manufacturer, a converter manufacturer, an automotive mobility dealer, or a dealer must have:

(1) a certificate of title;

(2) an assigned certificate of title;

(3) a manufacturer's certificate of origin;

(4) an assigned manufacturer's certificate of origin; or

(5) other proof of ownership or evidence of right of possession as determined by the secretary;

for a motor vehicle, semitrailer, or recreational vehicle in the manufacturer's, converter manufacturer's, automotive mobility dealer's, or dealer's possession.

Sec. 6. (a) If a dealer purchases or acquires ownership of a:

(1) motor vehicle;

(2) semitrailer; or

(3) recreational vehicle;

in a state that does not have a certificate of title law, the dealer shall apply for an Indiana certificate of title for the motor vehicle, semitrailer, or recreational vehicle not more than thirty-one (31) days from the date of purchase or the date ownership of the motor vehicle, semitrailer, or recreational vehicle was acquired.

(b) The bureau shall collect a delinquent title fee as provided in IC 9-29-4-4 if a dealer fails to apply for a certificate of title for a motor vehicle, semitrailer, or recreational vehicle as described under subsection (a).

Sec. 7. The bureau shall provide forms on which applications for certificates of title and assignments of certificates of title must be made under this chapter.

Sec. 8. A manufacturer, a converter manufacturer, an automotive mobility dealer, or a dealer shall deliver an assigned certificate of title or certificate of origin to a person entitled to the certificate of title or certificate of origin.

Sec. 9. (a) In order to obtain or maintain a manufacturer's, a converter manufacturer's, an automotive mobility dealer's, or a dealer's license from the secretary, a person must agree to allow a police officer or an authorized representative of the secretary to inspect:

(1) certificates of origin, certificates of title, assignments of certificates of origin and certificates of title, or other proof of ownership or evidence of right of possession as determined by

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the secretary; and

(2) motor vehicles, semitrailers, or recreational vehicles that are held for resale by the manufacturer, converter manufacturer, automotive mobility dealer, or dealer;

in the manufacturer's, converter manufacturer's, automotive mobility dealer's, or dealer's place of business during reasonable business hours.

(b) A certificate of title, a certificate of origin, and any other proof of ownership described under subsection (a):

(1) must be readily available for inspection by or delivery to the proper persons; and

(2) may not be removed from Indiana.

Chapter 5. Dealer License Plates

Sec. 1. A person licensed under IC 9-32-10 may apply for a dealer license plate. The application must include any information the secretary reasonably requires. Upon application, a distinctive registration number shall be assigned to each applicant. Two (2) certificates of registration and two (2) metal license plates bearing the registration number of the applicant shall then be issued to the applicant.

Sec. 2. (a) The secretary shall issue dealer license plates under this chapter according to the following classifications:

(1) Dealer-new.

(2) Dealer-used.

(3) Manufacturer.

(b) The secretary may adopt rules under IC 4-22-2 to establish additional classifications of dealer license plates and may prescribe the general conditions for usage of an additional classification. The secretary shall establish the classification of antique car museum dealer license plates.

Sec. 3. (a) The secretary shall:

(1) issue a research and development license plate under this chapter to a manufacturer of a vehicle subcomponent system; and

(2) adopt rules under IC 4-22-2 to prescribe the general conditions for the:

(A) application;

(B) issuance; and

(C) use;

of research and development license plates for manufacturers of vehicle component systems.

(b) The fee for a research and development license plate for a

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manufacturer of a vehicle subcomponent system is the fee under IC 9-29-17-2.

(c) A research and development license plate for a manufacturer of a vehicle subcomponent system shall be displayed in accordance with section 2(b) of this chapter.

Sec. 4. The secretary shall determine the color, dimension, and style of the letters and the information required on a dealer license plate issued under this chapter.

Sec. 5. Upon payment of the fee under IC 9-29-17-1(b), an applicant may obtain additional dealer license plates of the same category. The applicant must demonstrate the applicant's need for additional plates by stating the applicant's number of employees, annual sales, and other supporting factors. The secretary shall determine whether the applicant is entitled to additional plates.

Sec. 6. Dealer license plates issued to licensed dealers under this chapter expire as follows:

(1) A person whose business name begins with the letters A through B, inclusive, March 1 of each year.

(2) A person whose business name begins with the letters C through D, inclusive, April 1 of each year.

(3) A person whose business name begins with the letters E through G, inclusive, May 1 of each year.

(4) A person whose business name begins with the letters H through I, inclusive, June 1 of each year.

(5) A person whose business name begins with the letters J through L, inclusive, July 1 of each year.

(6) A person whose business name begins with the letters M through O, inclusive, August 1 of each year.

(7) A person whose business name begins with the letters P through R, inclusive, September 1 of each year.

(8) A person whose business name begins with the letters S through T, inclusive, October 1 of each year.

(9) A person whose business name begins with the letters U through Z, inclusive, November 1 of each year.

Dealer license plates issued to a sole proprietor expire based upon the name of the sole proprietorship.

Sec. 7. (a) Except as provided in sections 8 and 9 of this chapter, dealer-new, dealer-used, manufacturer, and wholesale license plates may be used only on motor vehicles in the:

(1) dealer's inventory being held for sale;

(2) usual operation of that manufacturer's or dealer's business;

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(3) movement of that manufacturer's or dealer's inventory; or

(4) inventory of a manufacturer or dealer that is unattended by that manufacturer or dealer or the dealer's agent for a maximum of ten (10) days by a prospective buyer or a service customer.

(b) The license plates referenced in subsection (a) must be:

(1) primarily used or stored at an address within Indiana; or

(2) displayed on a vehicle being transported for purposes of sale by a licensed Indiana dealer.

Sec. 8. Dealer-new, dealer-used, manufacturer, and wholesale license plates may be used without restriction by a manufacturer, a dealer, or an employee of a manufacturer or a dealer in compliance with rules adopted by the secretary to prohibit use of the plates solely to avoid payment of applicable taxes.

Sec. 9. Dealer-new, dealer-used, manufacturer, and wholesale license plates may be used without restriction by a designee of a dealer or a designee of a manufacturer under rules adopted by the secretary. The rules must provide the following:

(1) The dealer or manufacturer is to be assessed and pay the motor vehicle excise tax under IC 6-6-5 attributable to that part of the total year that the designee operates the motor vehicle.

(2) The dealer or manufacturer shall report to the secretary the date of assignment to a designee, the designee's name and address, and the date of termination of the assignment within ten (10) days of the assignment or termination.

(3) The tax calculated in subdivision (1) shall be paid within thirty (30) days of the termination of the assignment to the designee or at the time the dealer or manufacturer purchases license plates under this chapter.

Sec. 10. Dealer-new, dealer-used, manufacturer, and wholesale license plates may not be used on a vehicle that:

(1) is required to be registered; and

(2) has a fee charged by dealers to others for the use of the vehicle.

Sec. 11. (a) The secretary may issue an interim license plate to a dealer or manufacturer who is licensed and has been issued a license plate under section 2 of this chapter.

(b) The secretary shall prescribe the form of an interim license plate issued under this section. However, a plate must bear the assigned registration number and provide sufficient space for the expiration date as provided in subsection (c).

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(c) Whenever a dealer or manufacturer sells or leases a motor vehicle, the dealer or manufacturer may provide the buyer or lessee with an interim license plate. The dealer shall, in the manner provided by the secretary, affix on the plate in numerals and letters at least three (3) inches high the date on which the interim license plate expires.

(d) An interim license plate authorizes a motor vehicle owner or lessor to operate the vehicle for a maximum period of thirty-one (31) days from the date of sale or lease of the vehicle to the vehicle's owner or until a regular license plate is issued, whichever occurs first.

(e) A motor vehicle that is required by law to display license plates on the front and rear of the vehicle is required to display only a single interim plate.

(f) An interim plate shall be displayed:

(1) in the same manner required in IC 9-18-2-26; or

(2) in a location on the left side of a window facing the rear of the motor vehicle that is clearly visible and unobstructed. The plate must be affixed to the window of the motor vehicle.

(g) The dealer must provide an ownership document to the purchaser at the time of issuance of the interim plate that must be kept in the motor vehicle during the period an interim plate is used.

(h) All interim plates not issued by the dealer must be retained in the possession of the dealer at all times.

Sec. 12. A dealer may not knowingly or intentionally issue an altered interim license plate or an interim license plate with false or fictitious information.

Sec. 13. A person may not knowingly or intentionally operate a vehicle displaying an altered interim license plate issued under section 11 of this chapter.

Sec. 14. A record directly related to the use of interim plates by a dealer must be made available to an investigating employee of the secretary upon demand at the place of business of the dealer.

Chapter 6. Accounts and Distribution of License and Permit Fees Under IC 9-32-10

Sec. 1. (a) The dealer compliance account is established as a separate account to be administered by the secretary. The funds in the account must be available, with the approval of the budget agency, for use in enforcing and administering this article.

(b) The expenses of administering the dealer compliance account shall be paid from money in the account.

(c) The treasurer of state shall invest the money in the dealer

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compliance account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(d) The dealer compliance account consists of the following:

(1) Money deposited under:

(A) IC 9-29-17-14(b);

(B) IC 9-29-17-14(c);

(C) IC 9-29-17-16; and

(D) section 3(1) of this chapter.

(2) Appropriations to the account from other sources.

(3) Grants, gifts, donations, or transfers intended for deposit in the account.

(4) Interest that accrues from money in the account.

(e) Money in the dealer compliance account at the end of a state fiscal year does not revert to the state general fund.

(f) Money in the dealer compliance account is continuously appropriated to the secretary for the purposes of the account.

Sec. 2. (a) The dealer enforcement account is established as a separate account to be administered by the secretary.

(b) The dealer enforcement account consists of money deposited from:

(1) IC 9-32-3-1(c);

(2) IC 9-32-15-1(f);

(3) IC 9-32-15-17(d);

(4) IC 9-32-16-8; and

(5) IC 9-32-16-10.

The funds in the account shall be available, with the approval of the budget agency, for use to augment and supplement the funds appropriated for the administration of this article.

(c) The treasurer of state shall invest the money in the dealer enforcement account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited into the account.

(d) Money in the dealer enforcement account at the end of the state fiscal year does not revert to the state general fund.

(e) Money in the dealer enforcement account is continuously appropriated to the secretary for the purposes of the account.

Sec. 3. All money collected by the secretary from manufacturers, factory branches, distributors, dealers, automobile auctioneers, factory representatives, distributor representatives,

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wholesale dealers, transfer dealers, converter manufacturers, or automotive mobility dealers for licenses and permit fees under IC 9-29-17-8 through IC 9-29-17-10 shall be deposited as follows:

(1) Thirty percent (30%) to the dealer compliance account established by section 1 of this chapter.

(2) Forty percent (40%) to the motor vehicle highway account.

(3) Twenty percent (20%) to the state police department for use in enforcing odometer laws.

(4) Ten percent (10%) to the attorney general for use in enforcing odometer laws.

Chapter 7. Boat Dealers

Sec. 1. Boat dealers are classified for the purposes of this chapter and IC 9-29-17-5 into two (2) categories as follows:

(1) Class A dealers having more than one (1) business location for the sale of boats.

(2) Class B dealers having only one (1) business location for the sale of boats.

Sec. 2. A person must be licensed under this chapter before the person may engage in the business of selling boats.

Sec. 3. (a) An application for a boat dealer license must meet all the following conditions:

(1) Be accompanied by the fee under IC 9-29-17-5.

(2) Be on a form prescribed by the secretary.

(3) Contain any information that the secretary reasonably needs to enable the secretary to determine fully the:

(A) qualifications and eligibility of the applicant to receive the license;

(B) location of each of the applicant's places of business in Indiana; and

(C) ability of the applicant to conduct properly the business for which the application is submitted.

(b) An application for a license as a boat dealer must show whether the applicant proposes to sell new or used boats or both new and used boats.

Sec. 4. A license issued to a boat dealer must specify the location of each place of business and shall be conspicuously displayed at each business location. If a business name or location is changed, the holder shall notify the secretary within ten (10) days and remit the fee specified under IC 9-29-17-6(a). The secretary shall endorse that change on the boat dealer license if it is determined that the change is not subject to other provisions of this chapter.

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Sec. 5. A boat dealer license issued under this chapter is valid for one (1) year after the date the boat dealer license is issued. All license fees shall be paid at the annual rate under IC 9-29-17-5.

Sec. 6. (a) A person licensed under this chapter shall furnish evidence that the person currently has liability insurance covering the person's place of business. The policy must have limits of not less than the following:

(1) One hundred thousand dollars ($100,000) for bodily injury to one (1) person.

(2) Three hundred thousand dollars ($300,000) per accident.

(3) Fifty thousand dollars ($50,000) for property damage.

(b) The minimum amounts must be maintained during the time the license is valid.

Sec. 7. The secretary shall use all revenues accruing to the secretary under this chapter to enforce this chapter and Indiana boat registration laws. All necessary expenses incurred and all compensation paid by the secretary for administering this chapter shall be paid out of the revenue received under this chapter and from any supplemental appropriations.

Chapter 8. Licensing of Vehicle Salvaging

Sec. 1. A disposal facility, a used parts dealer, or an automotive salvage rebuilder must be licensed by the secretary under this chapter before the facility, dealer, or rebuilder may do any of the following:

(1) Sell a used major component part of a vehicle.

(2) Wreck or dismantle a vehicle for resale of the major component parts of the vehicle.

(3) Rebuild a wrecked or dismantled vehicle.

(4) Possess more than two (2) inoperable vehicles subject to registration for more than thirty (30) days unless the facility, dealer, or rebuilder holds a mechanic's lien on each vehicle over the quantity of two (2).

(5) Engage in the business of storing, disposing, salvaging, or recycling of vehicles, vehicle hulks, or the parts of vehicles.

Sec. 2. A disposal facility, a used parts dealer, or an automotive salvage rebuilder licensed in Indiana must have a principal place of business in Indiana conducting the business that is the basis for the license. A place of business that performs only ministerial tasks is not considered to be conducting business.

Sec. 3. To apply for a license under this chapter, a disposal facility, a used parts dealer, or an automotive salvage rebuilder must submit the following to the secretary:

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(1) A completed application, which must be verified by the secretary.

(2) The licensing fee under IC 9-29-17-7.

Sec. 4. The secretary shall prescribe an application form to be used by persons applying for a license under this chapter. The application must include the following information:

(1) The applicant's name.

(2) The applicant's type of business organization and the following as appropriate:

(A) If the applicant is a corporation, the name and address of each officer and director of the corporation.

(B) If the applicant is a sole proprietorship, the name and address of the sole proprietor.

(C) If the applicant is a partnership, the name and address of each partner.

(D) If the applicant is an unincorporated association or similar form of business organization, the name and address of each member, trustee, or manager.

(3) The applicant's principal place of business.

(4) The types of activities set out in section 1 of this chapter that the applicant proposes to conduct.

Sec. 5. Each license under this chapter, except an initial license, shall be issued for a twelve (12) month period beginning March 1 and expiring the last day of February of each year. An initial license may be issued for a period of less than twelve (12) months, but the license must expire on the last day of February immediately following the date the license is issued.

Sec. 6. Within a reasonable time, the secretary shall do the following:

(1) Review all license applications submitted under this chapter.

(2) Approve a submitted license application unless any of the following apply:

(A) The application does not conform with this chapter.

(B) The applicant has made a material fact misrepresentation on the application.

(C) The applicant has been convicted of committing a fraudulent act in connection with one (1) of the activities specified in section 1 of this chapter.

Sec. 7. A person denied a license under section 6 of this chapter is entitled to a hearing under IC 9-32-15.

Sec. 8. If the secretary approves a license application under this

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chapter, the secretary shall grant the applicant:

(1) an original license for the applicant's principal place of business; and

(2) a supplemental license for each other place of business listed on the application.

Sec. 9. The secretary shall prescribe the form of the licenses granted under section 8 of this chapter. A license granted under section 8 of this chapter must include the following information:

(1) The licensee's name.

(2) The licensee's type of business organization and the following as appropriate:

(A) If a corporation, the name and address of each officer.

(B) If a sole proprietorship, the name and address of the proprietor.

(C) If a partnership, the name and address of each managing partner.

(D) If an unincorporated association or similar form of business organization, the name and address of the manager or other chief administrative official.

(3) The licensee's principal place of business.

(4) A listing of the types of business activities specified in section 1 of this chapter that the licensee may conduct.

(5) The date the license expires.

Sec. 10. A licensee shall post a license granted to the licensee under this chapter in a conspicuous place at the licensed place of business.

Sec. 11. If the secretary receives a written complaint from a local zoning body that a disposal facility or automotive salvage rebuilder, subject to this chapter, is operating in violation of a local zoning ordinance, the secretary shall delay the issuance or renewal of the facility's or rebuilder's license under this chapter until the local zoning complaints have been satisfied.

Chapter 9. Motor Vehicle Sales Advisory Board

Sec. 1. The motor vehicle sales advisory board is established to advise the secretary in the administration of this article.

Sec. 2. (a) The advisory board is composed of the secretary and eleven (11) persons appointed by the governor upon the recommendation of the secretary as follows:

(1) Two (2) of the appointed members must be franchised new motor vehicle dealers as follows:

(A) One (1) member must have sold fewer than seven hundred fifty (750) new motor vehicles in the year before

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the member's appointment.

(B) One (1) member must have sold more than seven hundred forty-nine (749) new motor vehicles in the year before the member's appointment.

(2) Two (2) of the appointed members must represent the automobile manufacturing industry, and each must have been an Indiana resident for at least two (2) years immediately preceding the member's appointment.

(3) Two (2) of the appointed members must represent the general public and may not have any direct interest in the manufacture or sale of motor vehicles.

(4) One (1) member must represent used motor vehicle dealers that are not franchised new motor vehicle dealers.

(5) One (1) member must represent used motor vehicle auctioneers.

(6) One (1) member must represent the automobile salvage and recycling industry.

(7) One (1) member must represent boat dealers.

(8) One (1) member must represent the recreational vehicle industry.

(b) Not more than six (6) members of the advisory board may be of the same political party.

Sec. 3. (a) A member appointed to the advisory board under section 2 of this chapter serves a three (3) year term. A person may not serve more than two (2) consecutive full terms. Each appointed member serves until the member's successor is appointed and qualified.

(b) A member may be removed for good cause.

(c) A vacancy shall be filled by appointment of the governor for the unexpired term.

Sec. 4. Members of the advisory board are entitled to receive the expenses and per diem allowed by law. Membership on the advisory board does not constitute the holding of a public office.

Sec. 5. The secretary shall serve as chairman of the advisory board. The advisory board shall elect a vice chairman and secretary from the appointed members during the first month of each year. The vice chairman and secretary serve until their successors are appointed and qualified and may be removed for good cause.

Sec. 6. The advisory board shall meet at least one (1) time during a calendar year. Additional meetings may be convened at the call of the secretary or the written request of any three (3)

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members.

Sec. 7. Seven (7) members of the advisory board constitute a quorum for doing business. The majority vote of the members of the quorum, present and voting, is required for the passage of a matter put to a vote of the advisory board.

Sec. 8. The advisory board is vested with the following powers:

(1) To consult with and advise the secretary.

(2) To suggest rules, including the following:

(A) The contents of forms.

(B) Methods and procedures for the investigation and evaluation of the qualifications of applicants for licenses.

(C) The criteria upon which to issue, deny, suspend, and revoke licenses.

(D) Procedures for the investigation into and conduct of hearings on unfair practices.

Chapter 10. Regulation of Vehicle Merchandising

Sec. 1. (a) The following persons must be licensed under this article to engage in the business of buying or selling motor vehicles or semitrailers:

(1) An automobile auctioneer.

(2) A converter manufacturer.

(3) A dealer.

(4) A distributor.

(5) A distributor representative.

(6) A factory branch.

(7) A factory representative.

(8) A manufacturer.

(9) A transfer dealer.

(10) A wholesale dealer.

(11) An automotive mobility dealer.

(b) An automotive mobility dealer who engages in the business of:

(1) selling, installing, or servicing;

(2) offering to sell, install, or service; or

(3) soliciting or advertising the sale, installation, or servicing of;

equipment or modifications specifically designed to facilitate use or operation of a vehicle by an individual who is disabled or aged must be licensed under this article.

Sec. 2. (a) An application for a license under this chapter must:

(1) be accompanied by the fee required under IC 9-29-17;

(2) be on a form prescribed by the secretary;

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(3) contain the information the secretary considers necessary to enable the secretary to determine fully:

(A) the qualifications and eligibility of the applicant to receive the license;

(B) the location of each of the applicant's places of business in Indiana; and

(C) the ability of the applicant to conduct properly the business for which the application is submitted; and

(4) contain evidence of a bond required in subsection (e).

An application for a wholesale dealer license must contain the additional information required in section 2.3 of this chapter.

(b) An application for a license as a dealer must show whether the applicant proposes to sell new or used motor vehicles, or both.

(c) An applicant who proposes to use the Internet or another computer network to facilitate the sale of motor vehicles to consumers in Indiana shall, if the applicant's activities may result in the creation of business records outside Indiana, provide the division with the name, address, and telephone number of the person who has control of those business records. The secretary may not issue a license to a dealer who transacts business in this manner and does not have an established place of business in Indiana.

(d) The application must include an affidavit from:

(1) the person charged with enforcing a zoning ordinance described in this subsection; or

(2) the zoning enforcement officer under IC 36-7-4, if one exists;

who has jurisdiction over the real property where the applicant wants to operate as a dealer. The affidavit must state that the proposed location is zoned for the operation of a dealer's establishment. The applicant may file the affidavit at any time after the filing of the application. However, the secretary may not issue a license until the applicant files the affidavit.

(e) Except as provided in subsection (g), a licensee shall maintain a bond satisfactory to the secretary in the amount of twenty-five thousand dollars ($25,000). The bond must:

(1) be in favor of the state; and

(2) secure payment of fines, penalties, costs, and fees assessed by the secretary after notice, opportunity for a hearing, and opportunity for judicial review, in addition to securing the payment of damages to a person aggrieved by a violation of this chapter by the licensee after a judgment has been issued.

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(f) Service under this chapter shall be made in accordance with the Indiana Rules of Trial Procedure.

(g) Instead of meeting the requirement in subsection (e), a licensee may submit to the secretary evidence that the licensee is a member of a risk retention group regulated by the Indiana department of insurance.

Sec. 2.3. In addition to the requirements of section 2 of this chapter, a license application for a wholesale dealer must contain the following:

(1) A:

(A) copy of a written lease that has a term of not less than one (1) year; or

(B) copy of a deed for the property on which the wholesale dealer intends to conduct business.

(2) If the application is the initial application, photographs of the established place of business. The photographs must include, but are not limited to the:

(A) major exterior advertising sign; and

(B) display and office building.

Sec. 2.5. A wholesale dealer that has been issued a license under this chapter must maintain the following standards for the license to remain valid:

(1) A conspicuous permanent sign with letters not less than six (6) inches high bearing:

(A) the business name of the wholesale dealer; and

(B) the hours of operation of the wholesale dealer;

must be located in the interior of the established place of business of the wholesale dealer.

(2) The office of the wholesale dealer must be:

(A) housed at the established place of business of the wholesale dealer;

(B) not less than one hundred (100) square feet; and

(C) served with utilities such as electricity, lighting, heat, and a business telephone exclusively for the use of the wholesale dealer.

(3) The wholesale dealer or an employee of the wholesale dealer must be present for the purposes of inspection of records at the established place of business of the wholesale dealer during the posted hours of operation of the business of the wholesale dealer.

(4) All business records of the wholesale dealer must be kept at the licensed place of business of the wholesale dealer.

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Sec. 3. A manufacturer, distributor, factory branch, or dealer proposing to sell new motor vehicles shall file and maintain with the secretary:

(1) a current copy of each franchise to which the person is a party; or

(2) if the person is a party to multiple franchises that are identical except for stated items, a copy of the form franchise with supplemental schedules of variations from the form.

Sec. 4. (a) The license issued to a factory branch, an automobile auctioneer, a transfer dealer, or a dealer under this chapter:

(1) must specify the location of each place of business; and

(2) shall be conspicuously displayed at each business location.

(b) If a licensee's business name or location is changed, the licensee shall notify the secretary not later than ten (10) days after the change and remit the fee required under IC 9-29-17. The secretary shall endorse the change on the license if the secretary determines that the change is not subject to other provisions of this article.

(c) A dealer who uses the Internet or another computer network to facilitate the sale of motor vehicles as set forth in section 2(c) of this chapter shall notify the secretary not later than ten (10) days after any change in a name, address, or telephone number documented in business records located outside Indiana that have been created in transactions made in Indiana by the dealer. A report made under this subsection is not subject to the fee required under IC 9-29-17.

(d) A dealer who wants to change a location must submit to the secretary an application for approval of the change. The application must be accompanied by an affidavit from:

(1) the person charged with enforcing a zoning ordinance described in this subsection; or

(2) the zoning enforcement officer under IC 36-7-4, if one exists;

who has jurisdiction over the real property where the applicant wants to operate as a dealer. The affidavit must state that the proposed location is zoned for the operation of a dealer's establishment. The secretary may not approve a change of location or endorse a change of location on the dealer's license until the dealer provides the affidavit.

(e) For the purpose of this section, an offsite license issued under section 9 of this chapter does not constitute a change of location.

Sec. 5. A license issued to a factory representative or distributor

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representative must state the name of the representative's employer. Within ten (10) days after a change of employer, the licensee shall mail the license to the secretary and indicate the name and address of the licensee's new employer. The secretary shall endorse the change on the license and return the license to the licensee in care of the new employer of the licensee. A factory representative, distributor representative, or wholesale dealer must have a license when engaged in business and shall display the license upon request. A temporary license for a factory representative or distributor representative may be issued for a period of up to one hundred twenty (120) days pending investigation by the secretary of the representative's qualification for a license.

Sec. 6. The secretary shall, by rule adopted under IC 4-22-2, establish requirements for an initial application for and renewal of an automotive mobility dealer's license. The rules must include a requirement that each initial or renewal application for an automotive mobility dealer's license include proof that the applicant is accredited through the Quality Assurance Program of the National Mobility Equipment Dealers Association.

Sec. 7. An automotive mobility dealer licensed under this chapter is entitled to:

(1) display;
(2) inventory;
(3) advertise;
(4) offer for sale; or
(5) do any combination of subdivisions (1) through (4) concerning;

any adapted vehicle.

Sec. 8. This section does not apply to sales made at a motor vehicle industry sponsored trade show. A dealer may not sell or offer to sell a vehicle at a location away from the dealer's established place of business without obtaining an offsite sales license under section 9 of this chapter.

Sec. 9. (a) Except as provided in subsections (b) through (g), the secretary shall issue an offsite sales license to a dealer licensed under this chapter who submits an application for the license not later than ten (10) business days or two (2) calendar weeks before the offsite sale date. License applications under this section shall be made public upon the request of any person.

(b) The secretary may not issue an offsite sales license to a dealer who does not have an established place of business within

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Indiana.

(c) This subsection does not apply to:

(1) new manufactured housing dealers;

(2) recreational vehicle dealers;

(3) a rental company that is a dealer conducting a sale at a site within twenty (20) miles of any of its company owned affiliates; or

(4) off-road vehicle dealers.

The secretary may not issue an offsite sales license to a licensed dealer proposing to conduct a sale outside a radius of twenty (20) miles from the established place of business of the licensed dealer.

(d) A vehicle display is not considered an offsite sale if it is conducted by a new vehicle franchised dealer in an open area where no sales personnel and no sales material are present.

(e) The secretary may not issue an offsite sales license to a licensed dealer proposing to conduct an offsite sale for more than ten (10) calendar days.

(f) As used in this subsection, "executive" has the meaning set forth in IC 36-1-2-5. The secretary may not issue an offsite sales license to a licensed dealer if the dealer does not have certification that the offsite sale would be in compliance with local zoning ordinances or other local ordinances. Authorization under this subsection may be obtained only from the following:

(1) If the offsite sale would be located within the corporate boundaries of a city or town, the executive of the city or town.

(2) If the offsite sale would be located outside the corporate boundaries of a city or town:

(A) except as provided in clause (B), the executive of the county; or

(B) if the city or town exercises zoning jurisdiction under IC 36-7-4-205(b) over the area where the offsite sale would be located, the executive of the city or town.

(g) The secretary may not issue an offsite sales license to a licensed dealer who has held more than three (3) nonconsecutive offsite sales in the year ending on the date of the offsite sale for which the license application is being submitted.

(h) Section 2(c) of this chapter does not apply to the application or issuance of an offsite sales license under this section.

Sec. 10. A license issued under this chapter is valid for a one (1) year period in accordance with the following schedule:

(1) A person whose business name begins with the letters A through B, inclusive, shall register before March 1 of each

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year.

(2) A person whose business name begins with the letters C through D, inclusive, shall register before April 1 of each year.

(3) A person whose business name begins with the letters E through G, inclusive, shall register before May 1 of each year.

(4) A person whose business name begins with the letters H through I, inclusive, shall register before June 1 of each year.

(5) A person whose business name begins with the letters J through L, inclusive, shall register before July 1 of each year.

(6) A person whose business name begins with the letters M through O, inclusive, shall register before August 1 of each year.

(7) A person whose business name begins with the letters P through R, inclusive, shall register before September 1 of each year.

(8) A person whose business name begins with the letters S through T, inclusive, shall register before October 1 of each year.

(9) A person whose business name begins with the letters U through Z, inclusive, shall register before November 1 of each year.

A sole proprietor shall register based upon the name of the sole proprietorship.

Sec. 11. A person licensed under this article may transfer or assign a title for a motor vehicle.

Sec. 12. (a) A person licensed under this article shall furnish evidence that the person has liability insurance or garage liability insurance covering the person's place of business. The policy must have limits of not less than the following:

(1) One hundred thousand dollars ($100,000) for bodily injury to one (1) person.

(2) Three hundred thousand dollars ($300,000) for bodily injury for each accident.

(3) Fifty thousand dollars ($50,000) for property damage.

(b) The minimum amounts required by subsection (a) must be maintained during the time the license is valid.

Sec. 13. (a) A person who ceases a business activity for which a license was issued under this chapter shall do the following:

(1) Notify the secretary of the date that the business activity will cease.

(2) Deliver to the secretary all permanent dealer license plates and interim license plates issued to the person not later than

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ten (10) days after the date the business activity will cease.

(b) A dealer may not transfer or sell the:

(1) dealer's license; or

(2) use of the dealer's license.

(c) A dealer that changes its form of organization or state of incorporation may continue the dealer's licensure by filing an amendment to the registration if the change does not involve a material fact in the financial condition or management of the dealer. The amendment becomes effective when filed or on the date designated by the registrant in its filing. The new organization is a successor to the original registrant for the purposes of this article.

(d) If there is a change in the dealer's ownership, the successive owner shall file a new application for a license under this chapter.

Sec. 14. Except as provided in IC 9-29-17, all revenues accruing to the secretary under this chapter shall be deposited in the motor vehicle highway account.

Sec. 15. A dealer who sells a motor vehicle through the use of the Internet or another computer network shall deliver the motor vehicle to the customer at the place of business of the dealer in Indiana.

Sec. 16. (a) A person licensed under this article shall be issued a special event permit from the secretary for a special event that meets the following conditions:

(1) The event is a vehicle auction conducted by auctioneers licensed under IC 25-6.1-3.

(2) The vehicles to be auctioned are:

(A) at least fifteen (15) years old; or

(B) classified as classic, collector, or antique vehicles under rules adopted by the secretary.

(3) At least one hundred (100) vehicles will be auctioned during the special event.

(4) The licensee submits to the secretary an application for a special event permit not later than thirty (30) days before the beginning date of the special event.

(5) The application under subdivision (4) is accompanied by the permit fee required under IC 9-29-17-13.

(b) Not more than two (2) special event permits may be issued by the secretary to the same applicant within a twelve (12) month period.

Chapter 11. Disclosures Required in Motor Vehicle Leases

Sec. 1. A retail lessor shall do the following:

(1) Comply with the requirements of Regulation M (12 CFR

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213) for disclosure of gross capitalized cost, capitalized cost reduction, and adjusted capitalized cost adopted under the federal Truth in Lending Act (15 U.S.C. 1601 et seq.).

(2) Disclose to a retail lessee in a separate blocked section in a lease agreement, in capital letters in at least 10 point bold type the following:

THIS IS A LEASE AGREEMENT.

THIS IS NOT A PURCHASE AGREEMENT.

PLEASE REVIEW THESE MATTERS CAREFULLY AND SEEK INDEPENDENT PROFESSIONAL ADVICE IF YOU HAVE ANY QUESTIONS CONCERNING THIS TRANSACTION. YOU ARE ENTITLED TO AN EXACT COPY OF THE AGREEMENT YOU SIGN.

(3) Provide the retail lessee with a copy of each document signed by the retail lessee during the course of the lease transaction.

Sec. 2. A trade-in vehicle used, in whole or in part, to pay amounts due at lease signing or delivery of the vehicle must be identified as a trade-in vehicle in the lease agreement and identified by year, make, and model. The lease agreement must state the net credit of the trade-in vehicle used to pay amounts due at lease signing or delivery of the vehicle.

Sec. 3. A bona fide printing error identified on the face of the lease agreement does not constitute a violation of this chapter.

Sec. 4. (a) A retail lessor who fails to comply with the requirements of this chapter is liable to the retail lessee for:

(1) actual damages sustained;

(2) a civil penalty of not more than one thousand dollars ($1,000) per lease transaction; and

(3) reasonable attorney's fees and costs.

(b) In addition to any other remedies provided by law, a retail lessee may bring an action in circuit court to recover the damages, penalties, and fees described in subsection (a).

(c) The total recovery of damages, penalties, and fees in a class action civil suit brought under this section may not exceed one hundred thousand dollars ($100,000).

Sec. 5. A civil suit described under section 4 of this chapter may be brought on behalf of a consumer by the attorney general.

Sec. 6. An action authorized by sections 4 and 5 of this chapter must be brought not later than three (3) years after the date the lease agreement is signed.

Chapter 12. Unfair Practices

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Sec. 1. It is an unfair practice for a dealer to require a purchaser of a motor vehicle, as a condition of sale and delivery of the motor vehicle, to purchase any equipment, part, or accessory not ordered by the purchaser unless the equipment, part, or accessory is:

(1) already installed on the motor vehicle when the motor vehicle is received by or offered for sale by the dealer; or

(2) required by law.

Sec. 2. It is an unfair practice for a dealer to willingly fail to perform the obligations imposed on the dealer in connection with the delivery and preparation of a new motor vehicle for retail sale as provided in the preparation and delivery agreement of the manufacturer or distributor applicable to the motor vehicle.

Sec. 3. It is an unfair practice for a dealer to willingly fail to perform the obligations imposed on the dealer in connection with the warranty agreement of the manufacturer or distributor applicable to any motor vehicle sold by the dealer.

Sec. 4. It is an unfair practice for a dealer to sell a new motor vehicle having a trade name, trade or service mark, or related characteristic for which the dealer does not have a franchise in effect at the time of the sale. However, a vehicle having more than one (1) trade name, trade or service mark, or related characteristic as a result of modification or further manufacture by a manufacturer, converter manufacturer, or an automotive mobility dealer licensed under this article may be sold by a franchisee appointed by that manufacturer, converter manufacturer, or automotive mobility dealer.

Sec. 5. It is an unfair practice for a dealer to willingly fail to perform the fiduciary duty imposed on the dealer by IC 6-2.5-2-1 with regard to the collection and remittance of the state gross retail tax. Willful violation of the fiduciary duty includes written or oral agreements between a dealer and a prospective purchaser that would give the appearance that a bona fide trade-in has taken place, when in fact the purpose of the agreement is to reduce the prospective purchaser's state gross retail tax and thereby deprive the state of revenue.

Sec. 6. It is an unfair practice for a dealer to sell, exchange, or transfer a rebuilt vehicle without disclosing in writing to the purchaser, customer, or transferee the fact that the vehicle is a rebuilt vehicle if the dealer knows or should reasonably know before consummating the sale, exchange, or transfer that the vehicle is a rebuilt vehicle.

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Sec. 7. It is an unfair practice for a dealer to require a purchaser of a motor vehicle as a condition of the sale and delivery of the motor vehicle to pay a document preparation fee, unless the fee:

(1) reflects expenses actually incurred for the preparation of documents;

(2) was affirmatively disclosed by the dealer;

(3) was negotiated by the dealer and the purchaser;

(4) is not for the preparation, handling, or service of documents that are incidental to the extension of credit; and

(5) is set forth on a buyer's order or similar agreement by a means other than preprinting.

Sec. 8. (a) It is an unfair practice for a manufacturer or distributor to violate IC 23-2-2.7.

(b) It is an unfair practice for a manufacturer or distributor to enter into an agreement in which a dealer is required to waive the provisions of:

(1) this chapter; or

(2) IC 23-2-2.7.

However, this subsection does not apply to a voluntary agreement in which separate consideration is offered and accepted.

Sec. 9. It is an unfair practice for a manufacturer or distributor to coerce a dealer to order parts, accessories, equipment, machinery, tools, appliances, or any other commodity from a person.

Sec. 10. It is an unfair practice for a manufacturer or distributor to prevent or require, or attempt to prevent or require, by contract or otherwise, a change in the capital structure of a dealer or the means by or through which the dealer finances the dealer's operation, if the dealer at all times meets reasonable capital standards agreed to by the dealer and the manufacturer or distributor. A change in capital structure does not cause a change in the principal management or have the effect of a sale of the franchise without the consent of the manufacturer or distributor.

Sec. 11. It is an unfair practice for a manufacturer or distributor to prevent or require, or attempt to prevent or require, a dealer to change the dealer's executive management, other than the principal dealer operator or operators, if the franchise was granted in reliance upon the personal qualifications of the principal dealer operator or operators.

Sec. 12. It is an unfair practice for a manufacturer or distributor to prevent or require, or attempt to prevent or require,

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by contract or otherwise, a dealer or an officer, a partner, or a stockholder of a dealer to sell or transfer a part of the interest of the officer, partner, or stockholder to any other person. A dealer, an officer, a partner, or a stockholder may not sell, transfer, or assign the franchise or a right under the franchise without the consent of the manufacturer or distributor. This consent may not be withheld unreasonably.

Sec. 13. It is an unfair practice for a manufacturer or distributor to prevent or attempt to prevent a dealer from receiving fair and reasonable compensation for the value of the franchised business as a going concern. The dealer may not transfer or assign the dealer's franchise without the consent of the manufacturer or distributor, and the manufacturer or distributor may not unreasonably withhold consent.

Sec. 14. It is an unfair practice for a manufacturer or distributor to employ a person as a representative who has not been licensed under this article.

Sec. 15. (a) It is an unfair practice for a manufacturer or distributor to fail to compensate to a dealer the posted labor rate for the work and services the dealer is required to perform in connection with the dealer's delivery and preparation obligations under any franchise or fail to compensate to a dealer the posted hourly labor rate for labor and other expenses incurred by the dealer under the manufacturer's warranty agreements as long as the posted rate is reasonable. Judgment of the reasonableness includes consideration of charges for similar repairs by comparable repair facilities in the local area as well as mechanic's wages and fringe benefits.

(b) This section does not authorize a manufacturer or distributor and its franchisees in Indiana to establish a uniform hourly labor reimbursement rate effective for the entire state.

Sec. 16. (a) A manufacturer or distributor and at least thirty percent (30%) of its franchisees in Indiana of the same line make may agree in an express written contract citing this section to a uniform warranty reimbursement policy to be used by franchisees for the performance of warranty repairs. The contract must include reimbursement for parts used in warranty repairs or the use of a uniform time standards manual, or both. The allowance for diagnosis within the uniform time standards manual must be reasonable and adequate for the work and service to be performed. The manufacturer or distributor:

(1) may have only one (1) agreement with regard to each line

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make; and

(2) must have a reasonable and fair procedure for franchisees to request a modification or adjustment of a standard included in the uniform time standards manual.

(b) A contract described in subsection (a) must meet the following criteria:

(1) Establish a uniform parts reimbursement rate that must be greater than the manufacturer's or distributor's nationally established parts reimbursement rate in effect at the time the contract becomes effective. A subsequent contract must include a uniform reimbursement rate that is equal to or greater than the rate in the immediately prior contract.

(2) Apply to all warranty repair orders written while the agreement is in effect.

(3) At any time during the period the contract is in effect:

(A) be available to any franchisee of the same line make as the franchisees who entered into the contract with the manufacturer or distributor; and

(B) be available to a franchisee of the same line make on the same terms as apply to the franchisees who entered into the contract with the manufacturer or distributor.

(4) Be for a term not to exceed three (3) years.

(5) Allow any party to the uniform warranty reimbursement policy to terminate the policy with thirty (30) days prior written notice to all parties upon the annual anniversary of the policy, if the policy is for at least one (1) year.

(6) Remain in effect for the entire original period if the manufacturer and at least one (1) franchisee remain parties to the policy.

(c) A manufacturer or distributor that enters into a contract with its franchisees under subsection (a) may seek to recover only its costs from a franchisee that receives a higher reimbursement rate, if authorized by law, subject to the following:

(1) Costs may be recovered only by increasing invoice prices on new vehicles received by the franchisee.

(2) A manufacturer or distributor may make an exception for vehicles that are titled in the name of a purchaser in another state. However, price increases imposed for the purpose of recovering costs imposed by this section may vary from time to time and from model to model and must apply uniformly to all franchisees of the same line make that have requested reimbursement for warranty repairs at a level higher than

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provided for in the agreement.

(d) A manufacturer or distributor that enters into a contract with its franchisees under subsection (a) shall do the following:

(1) Certify to the secretary under oath, in a writing signed by a representative of the manufacturer or distributor, that at the time the contract was entered into at least thirty percent (30%) of the franchisees of the line make were parties to the contract.

(2) File a copy of the contract with the bureau at the time of the certification.

(3) Maintain a file that contains the information upon which the certification required under subdivision (1) is based for three (3) years after the certification is made.

Sec. 17. (a) It is an unfair practice for a manufacturer or distributor to:

(1) fail to pay a claim made by a dealer for compensation for:

(A) delivery and preparation work;

(B) warranty work; and

(C) incentive payments;

not later than thirty (30) days after the claim is approved;

(2) fail to approve or disapprove a claim not later than thirty (30) days after receipt of the claim; or

(3) disapprove a claim without notice to the dealer in writing of the grounds for disapproval.

(b) A manufacturer or distributor may:

(1) audit a claim made by a dealer; or

(2) charge back to a dealer any amounts paid on a false or unsubstantiated claim;

for up to two (2) years after the date on which the claim is paid. However, the limitations of this subsection do not apply if the manufacturer or distributor can prove fraud on a claim. A manufacturer or distributor shall not discriminate among dealers with regard to auditing or charging back claims.

Sec. 18. It is an unfair practice for a manufacturer or distributor to sell a motor vehicle for resale to a person not licensed under this article.

Sec. 19. It is an unfair practice for a manufacturer or distributor to refuse or fail to indemnify and hold harmless a dealer, upon written notification from the dealer, from all losses, costs, and expenses that result or arise from or are related to a complaint, claim, defense, or suit against the dealer that concerns defects in a motor vehicle or other goods or services that are the

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responsibility of the manufacturer.

Sec. 20. It is an unfair practice for an automobile auctioneer, a wholesale dealer, or a transfer dealer, in connection with the auctioneer's or dealer's business, to use false, deceptive, or misleading advertising or to engage in deceptive acts or practices.

Sec. 21. It is an unfair practice for an employee, an agent, an officer, a partner, or a representative of a licensee to engage in a practice prohibited by this chapter.

Sec. 22. (a) It is an unfair practice for a manufacturer to terminate a franchise in violation of IC 23-2-2.7-3. A dealer may not transfer, assign, or sell the business and assets of a dealership or an interest in the dealership to another person under an agreement that contemplates or is conditioned on a continuation of the franchise relationship with the manufacturer or distributor unless the dealer first:

(1) notifies the manufacturer or distributor of the dealer's decision to make the transfer, assignment, or sale by written notice; and

(2) obtains the approval of the manufacturer or distributor.

The dealer must provide the manufacturer or distributor with completed application forms and related information generally used by the manufacturer or distributor to conduct a review of such a proposal and a copy of all agreements regarding the proposed transfer, assignment, or sale.

(b) The manufacturer or distributor shall send a letter by certified mail to the dealer not later than sixty (60) days after the manufacturer or distributor receives the information specified in subsection (a). The letter must indicate any disapproval of the transfer, assignment, or sale and must set forth the material reasons for the disapproval. If the manufacturer or distributor does not respond by letter not later than sixty (60) days after the manufacturer or distributor receives the information under subsection (a), the manufacturer's or distributor's consent to the proposed transfer, assignment, or sale is considered to have been granted. A manufacturer or distributor may not unreasonably withhold approval of a transfer, assignment, or sale under this section.

(c) A manufacturer or distributor has a right of first refusal as specified in the franchise agreement to acquire the new vehicle dealer's assets or ownership if there is a proposed change of more than fifty percent (50%) of the dealer's ownership or proposed transfer of more than fifty percent (50%) of the new vehicle

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dealer's assets and all the following are met:

(1) The manufacturer or distributor notifies the dealer in writing of the intent of the manufacturer or distributor to exercise the right of first refusal within the sixty (60) day notice period under subsection (b).

(2) The exercise of the right of first refusal will result in the dealer and the dealer's owners receiving consideration, terms, and conditions that are either the same as or better than those they have contracted to receive under the proposed change of more than fifty percent (50%) of the dealer's ownership or transfer of more than fifty percent (50%) of the new vehicle dealer's assets.

(3) The proposed change of the dealership's ownership or transfer of the new vehicle dealer's assets does not involve the transfer of assets or the transfer or issuance of stock by the dealer or one (1) or more of the dealer's owners to any of the following:

(A) A designated family member or members, including any of the following members of one (1) or more dealer owners:

(i) The spouse.

(ii) A child.

(iii) A grandchild.

(iv) The spouse of a child or a grandchild.

(v) A sibling.

(vi) A parent.

(B) A manager:

(i) employed by the dealer in the dealership during the previous four (4) years; and

(ii) who is otherwise qualified as a dealer operator.

(C) A partnership or corporation controlled by any of the family members described in clause (A).

(D) A trust arrangement established or to be established:

(i) for the purpose of allowing the new vehicle dealer to continue to qualify as such under the manufacturer's or distributor's standards; or

(ii) to provide for the succession of the franchise agreement to designated family members or qualified management in the event of the death or incapacity of the dealer or the principal owner or owners.

(4) Except as otherwise provided in this subsection, the manufacturer or distributor agrees to pay the reasonable

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expenses, including reasonable attorney's fees, that do not exceed the usual, customary, and reasonable fees charged for similar work done for other clients, and that are incurred by the proposed owner or transferee before the manufacturer's or distributor's exercise of the right of first refusal in negotiating and implementing the contract for the proposed change of the dealer ownership or the transfer of the new vehicle dealer's assets. Payment of expenses and attorney's fees is not required if the dealer has failed to submit an accounting of those expenses not later than twenty (20) days after the dealer receives the manufacturer's or distributor's written request for such an accounting. An expense accounting may be requested by a manufacturer or distributor before exercising the right of first refusal.

(d) Violation of this section by the manufacturer or distributor is an unfair practice by a manufacturer or distributor.

Sec. 23. It is an unfair practice for a manufacturer, distributor, officer, or agent to do any of the following:

(1) Require, coerce, or attempt to coerce a new motor vehicle dealer in Indiana to:

(A) change the location of the dealership;

(B) make any substantial alterations to the use of franchises; or

(C) make any substantial alterations to the dealership premises or facilities;

if to do so would be unreasonable or would not be justified by current economic conditions or reasonable business considerations. This subdivision does not prevent a manufacturer or distributor from establishing and enforcing reasonable facility requirements.

(2) Require, coerce, or attempt to coerce a new motor vehicle dealer in Indiana to divest ownership of or management in another line or make of motor vehicles that the dealer has established in its dealership facilities with the prior written approval of the manufacturer or distributor.

(3) Establish or acquire wholly or partially a franchisor owned outlet engaged wholly or partially in a substantially identical business to that of the franchisee within the exclusive territory granted the franchisee by the franchise agreement or, if no exclusive territory is designated, competing unfairly with the franchisee within a reasonable market area. A franchisor is not considered to be competing unfairly if

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operating:

(A) a business for less than two (2) years;

(B) in a bona fide retail operation that is for sale to any qualified independent person at a fair and reasonable price; or

(C) in a bona fide relationship in which an independent person has made a significant investment subject to loss in the business operation and can reasonably expect to acquire majority ownership or managerial control of the business on reasonable terms and conditions.

This subdivision does not apply to recreational vehicle manufacturer franchisors.

Sec. 24. (a) This section does not apply to the relocation of a new motor vehicle dealer to a location that is not more than two (2) miles from its established place of business.

(b) This section does not apply to the reopening or replacement in a relevant market area of a closed dealership that has been closed within the preceding year, if the established place of business of the reopened or replacement dealer is within two (2) miles of the established place of business of the closed dealership.

(c) Before a franchisor enters into a franchise establishing or relocating a new motor vehicle dealer within a relevant market area where the same line make is represented, the franchisor shall give written notice to each new motor vehicle dealer of the same line make in the relevant market area of the franchisor's intention to establish an additional dealer or to relocate an existing dealer within that relevant market area.

(d) Not later than thirty (30) days after:

(1) receiving the notice provided for in subsection (c); or

(2) the end of any appeal procedure provided by the franchisor;

a new motor vehicle dealer may bring a declaratory judgment action in the circuit court for the county in which the new motor vehicle dealer is located to determine whether good cause exists for the establishing or relocating of a proposed new motor vehicle dealer. If an action is filed under this section, the franchisor may not establish or relocate the proposed new motor vehicle dealer until the circuit court has rendered a decision on the matter. An action brought under this section shall be given precedence over all other civil matters on the docket of the court.

(e) In determining whether good cause exists for establishing or relocating an additional new motor vehicle dealer for the same line

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make, the court shall take into consideration the existing circumstances, including the following:

(1) Permanency of the investment.

(2) Effect on the retail new motor vehicle business and the consuming public in the relevant market area.

(3) Whether it is injurious or beneficial to the public welfare.

(4) Whether the new motor vehicle dealers of the same line make in that relevant market area are providing adequate competition and convenient consumer care for the motor vehicles of that line make in the market area, including the adequacy of motor vehicle sales and qualified service personnel.

(5) Whether the establishment or relocation of the new motor vehicle dealer would promote competition.

(6) Growth or decline of the population and the number of new motor vehicle registrations in the relevant market area.

(7) The effect on the relocating dealer of a denial of its relocation into the relevant market area.

Sec. 25. It is an unfair practice for a person to:

(1) act as;

(2) offer to act as; or

(3) profess to be;

a broker in the advertising, buying, or selling of at least five (5) new or used vehicles per year.

Sec. 26. It is an unfair practice for a dealer to, in connection with the offer, sale, or purchase of a vehicle, directly or indirectly:

(1) employ a device, scheme, or artifice to defraud;

(2) make an untrue statement of a material fact or omit to state a material fact necessary to make the statement made, in light of the circumstances under which the statement was made, not misleading; or

(3) engage in an act, practice, or course of business that operates or would operate as a fraud or deceit upon another person.

Chapter 13. Damage to New Motor Vehicles

Sec. 1. Notwithstanding the terms, provisions, or conditions of an agreement or franchise, a motor vehicle dealer is solely liable for damage to a new motor vehicle:

(1) after acceptance from the carrier or transporter; and

(2) before delivery to the ultimate purchaser.

Sec. 2. Notwithstanding the terms, provisions, or conditions of any agreement or franchise, a manufacturer, converter

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manufacturer, or automotive mobility dealer is liable for all damage to a new motor vehicle before delivery of the motor vehicle to a carrier or transporter.

Sec. 3. A motor vehicle dealer is liable for damage to a new motor vehicle after the motor vehicle is delivered to the carrier or transporter only if the dealer selects the method of transportation, mode of transportation, and the carrier or transporter. In all other instances, the manufacturer is liable for carrier related damage to a new motor vehicle.

Sec. 4. (a) This section does not apply to damage to:

(1) glass;

(2) radios;

(3) tires; and

(4) bumpers;

when replaced by identical manufacturer's original equipment.

(b) Any uncorrected or corrected damage to a new motor vehicle exceeding four percent (4%) of the manufacturer's suggested retail price (as defined in 26 U.S.C. 4216), as measured by retail repair costs, must be disclosed in writing before delivery of the motor vehicle to an ultimate purchaser.

Sec. 5. Repaired damage to a new motor vehicle ordered by a customer not exceeding four percent (4%) of the manufacturer's suggested retail price (as defined in 26 U.S.C. 4216) does not need to be disclosed at the time of sale.

Chapter 14. Succession to Franchise by Designated Family Members

Sec. 1. This chapter does not apply to a franchise if:

(1) the franchise is granted to a dealer other than a new motor vehicle dealer; and

(2) the franchise or other written document filed with the franchisor includes the franchisee's designation of a successor to the franchise who is not the:

(A) spouse of the franchisee;

(B) child of the franchisee;

(C) grandchild of the franchisee;

(D) spouse of a:

(i) child; or

(ii) grandchild;

of the franchisee;

(E) parent of the franchisee; or

(F) sibling of the franchisee.

Sec. 2. A designated family member of a deceased or

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incapacitated franchisee may succeed the franchisee under the existing franchise if:

(1) the manufacturer or distributor determines, subject to section 3 of this chapter, that the existing franchise should be honored; and

(2) the designated family member complies with section 4 of this chapter.

Sec. 3. A manufacturer or distributor may refuse to honor the succession of an existing franchise under section 2 of this chapter only for good cause.

Sec. 4. To qualify under section 2 of this chapter to succeed a franchisee under the existing franchise, a designated family member must do all the following:

(1) Not later than one hundred twenty (120) days after the franchisee's death or disability, give the manufacturer or distributor written notice of the designated family member's intention to succeed to the franchise.

(2) Agree to be bound by all terms and conditions of the existing franchise.

(3) Meet the criteria generally applied at the time of the death or incapacity of the franchisee by the manufacturer or distributor in qualifying new motor vehicle dealers as franchisees.

(4) If requested by the manufacturer or distributor, promptly supply personal and financial data that is reasonably necessary for the manufacturer or distributor to determine if the existing franchise should be honored.

Sec. 5. (a) Not later than sixty (60) days after receipt of:

(1) notice from a designated family member under section 4(1) of this chapter; or

(2) requested personal or financial data under section 4(4) of this chapter;

a manufacturer or distributor that determines that good cause exists for refusing to honor the existing franchise shall serve notice of the determination on the designated family member.

(b) The notice required under subsection (a) must state the following:

(1) The specific grounds for the manufacturer's or distributor's determination.

(2) The date on which the existing franchise will be discontinued, which must be at least ninety (90) days after the date the notice is served.

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(c) If notice of the manufacturer's determination is not served within the time specified in subsection (a) and does not comply with subsection (b), the franchise must be honored and is not subject to discontinuance under this chapter.

Chapter 15. Administration and Legal Proceedings

Sec. 1. (a) This chapter shall be administered by the division. The secretary shall appoint the director, who is responsible for the direction and supervision of the division and the administration of this article under the direction and control of the secretary. The salary of the director shall be paid out of funds appropriated for the administration of this article. The director serves at the will of the secretary.

(b) The secretary:

(1) shall employ employees, including a director, investigators or attorneys, necessary for the administration of this article; and

(2) shall fix the compensation of the employees with the approval of the budget agency.

(c) It is unlawful for the director or an officer, employee, or designee of the secretary to use for personal benefit or the benefit of others records or other information obtained by or filed with the dealer services division under this article that are confidential. This article does not authorize the director or an officer, employee, or designee of the secretary to disclose the record or information, except in accordance with this chapter.

(d) This article does not create or diminish a privilege or exemption that exists at common law, by statute or rule, or otherwise.

(e) The director may develop and implement dealer's and vehicle purchaser's education initiatives to inform dealers and the public about the offer or sale of vehicles, with particular emphasis on the prevention and detection of fraud involving vehicle sales. In developing and implementing these initiatives, the director may collaborate with public and nonprofit organizations with an interest in consumer education. The director may accept a grant or donation from a person that is not affiliated with the dealer industry or from a nonprofit organization, regardless of whether the organization is affiliated with the dealer industry, to develop and implement consumer education initiatives. This subsection does not authorize the director to require participation or monetary contributions of a registrant in an education program.

(f) Fees and funds of any kind accruing from the administration

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of this article shall be accounted for by the secretary and shall be deposited with the treasurer of state to be deposited in either the state general fund or the dealer enforcement account established by IC 9-32-6-2. Expenses incurred in the administration of this article shall be paid from the state general fund upon appropriation being made for the expenses in the manner provided by law for the making of those appropriations. However, grants and donations under subsection (e), costs of investigations, and civil penalties recovered under this chapter shall be deposited by the treasurer of state in the dealer enforcement account established by IC 9-32-6-2. The funds in the dealer compliance account established by IC 9-32-6-1 must be available, with the approval of the budget agency, to augment and supplement the funds appropriated for the administration of this article.

(g) In connection with the administration and enforcement of this article, the attorney general shall render all necessary assistance to the director upon the request of the director. To that end, the attorney general shall employ legal and other professional services as are necessary to adequately and fully perform the service under the direction of the director as the demands of the division require. Expenses incurred by the attorney general for the purposes stated under this subsection are chargeable against and shall be paid out of funds appropriated to the attorney general for the administration of the attorney general's office. The attorney general may authorize the director and the director's designee to represent the director and the division in any proceeding involving enforcement or defense of this article.

(h) The secretary, the director, and employees of the division are not liable in an individual capacity, except to the state, for an act done or omitted in connection with the performance of their duties under this article.

(i) The director, and each attorney or investigator designated by the director:

(1) are police officers of the state;

(2) have all the powers and duties of police officers in conducting investigations for violations of this article, or in serving any process, notice, or order issued by an officer, authority, or court in connection with the enforcement of this article; and

(3) comprise the enforcement department of the division.

The division is a criminal justice agency for purposes of IC 5-2-4-1(3) and IC 10-13-3-6.

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(j) The provisions of this article delegating and granting power to the secretary, the division, and the director shall be liberally construed to the end that:

(1) the practice or commission of fraud may be prohibited and prevented; and

(2) disclosure of sufficient and reliable information in order to afford reasonable opportunity for the exercise of independent judgment of the persons involved may be assured.

It is the intent and purpose of this article to delegate to, grant to, and vest in the secretary, the division, and the director full and complete power to carry into effect and accomplish the purpose of this article and to charge them with full and complete responsibility for the effective administration of this article.

(k) Copies of any statement and documents filed in the office of the secretary and of any records of the secretary certified by the director shall be admissible in any prosecution, action, suit, or proceeding based on, arising out of, or under this article to the same effect as the original of the statement, document, or record would be if actually produced.

Sec. 2. (a) An order issued under this article may deny a dealer license application for registration if the secretary finds that the order is in the public interest and subsection (c) authorizes the action. An order may condition or limit the license of an applicant to be a dealer and, if the applicant for a dealer license is a partner, officer, director, or person having similar status or performing similar functions, or a person directly or indirectly in control of the dealership, the order may condition or limit the license.

(b) If the secretary finds that the order is in the public interest and subsection (c) authorizes the action, an order issued under this article may deny, revoke, suspend, condition, limit, or permanently bar the granting of a license to or an application for a license from a dealer, or a partner, an officer, a director, or a person having a similar status or performing similar functions as a dealer, or a person directly or indirectly in control of the dealer. However, the secretary may not:

(1) institute a revocation or suspension proceeding under this subsection based on an order issued under the law of another state that is reported to the secretary or a designee of the secretary more than one (1) year after the date of the order on which it is based; or

(2) issue an order on the basis of an order issued under the

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dealer services laws of another state unless the other order was based on conduct for which subsection (c) would authorize the action had the conduct occurred in Indiana.

(c) A person may be disciplined under subsections (a) and (b) if the person:

(1) has filed an application for a dealer license in this state under this article, or its predecessor, within the previous ten (10) years, which, as of the effective date of license or registration or as of any date after filing in the case of an order denying effectiveness, was incomplete as to a material fact or contained a statement that, in light of the circumstances under which it was made, was false or misleading with respect to a material fact;

(2) knowingly violated or knowingly failed to comply with this article, or its predecessor, within the previous ten (10) years;

(3) has been convicted of a felony within the previous ten (10) years or has been convicted of a misdemeanor involving theft, fraud, or an aspect of business involving the offer, sale, financing, repair, or manufacture of a vehicle;

(4) is enjoined or restrained by a court with jurisdiction in an action instituted by a state or the United States from engaging in or continuing an act, practice, or course of business involving an aspect of a business involving the offer, barter, sale, purchase, transfer, financing, repair, or manufacture of a vehicle;

(5) refuses to allow or otherwise impedes the secretary from conducting an audit or inspection;

(6) has engaged in dishonest or unethical practices in a business involving the offer, barter, sale, purchase, transfer, financing, repair, or manufacture of a vehicle within the previous ten (10) years;

(7) is engaging in unfair practices as set forth in this article;

(8) is on the most recent tax warrant list supplied to the secretary by the department of state revenue;

(9) violates IC 23-2-2.7; or

(10) violates IC 9-19-9.

(d) The secretary may suspend or deny an application summarily or restrict, condition, limit, censure, bar, or suspend a dealer license before final determination of an administrative proceeding. Upon the issuance of an order, the secretary shall promptly notify each person subject to the order:

(1) that the order has been issued;

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(2) the reasons for the action; and

(3) that within fifteen (15) days after the receipt of a request in a record from the person the matter will be scheduled for a hearing.

If a hearing is not requested and no hearing is ordered by the secretary within thirty (30) days after the date of service of the order, the order becomes final by operation of law. If a hearing is requested or ordered, the secretary, after notice of and opportunity for hearing to each person subject to the order, may modify or vacate the order or extend the order until final determination.

(e) Revocation or suspension of a license of a manufacturer, a distributor, a factory branch, a dealer, or an automobile auctioneer may be limited to one (1) or more locations, to one (1) or more defined areas, or only to certain aspects of the business.

(f) Except as provided in subsection (d), an order may not be issued under this section without:

(1) appropriate notice to the applicant or registrant;

(2) an opportunity for a hearing; and

(3) findings of fact and conclusion of law in a record.

(g) A person that controls, directly or indirectly, a person not in compliance with this section may be disciplined by order of the secretary under subsections (a) and (b) to the same extent as the noncomplying person, unless the controlling person did not know, and in the exercise of reasonable care could not have known, of the existence of conduct that is a ground for discipline under this section.

Sec. 3. Information or documents obtained by the division in the course of an investigation, unless such information or documents are published by the division under the authority of the division under statute or rule, are confidential. Such information and documents may be disclosed to:

(1) representatives of domestic or foreign governmental authorities;

(2) self-regulatory agencies;

(3) state or federal law enforcement officers;

(4) special counsels; and

(5) trustees in a bankruptcy proceeding;

upon the acceptance of an access request letter. The division may also, to the extent necessary, disclose such information and documents in court proceedings, when ordered to do so by a court with jurisdiction, or when appropriate in furtherance of any ongoing investigation or proceeding.

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Sec. 4. A person complying with any request, order, or subpoena issued by the division for the production of documentary evidence shall retain the originals and shall provide the division with clearly legible, true, and complete copies of the documents requested, along with a signed cover letter, which must identify those documents with a reasonable degree of specificity.

Sec. 5. The secretary may cooperate, coordinate, consult, and subject to this article, share records and information with:

(1) the dealer services regulator in another state;

(2) a foreign jurisdiction;

(3) the United States Department of Justice;

(4) an insurance regulator; or

(5) a governmental law enforcement agency.

Sec. 6. All dealers licensed with the division shall, upon request, provide members of the staff of the division prompt access, during reasonable business hours, to that part of the premises at the dealer's place of business where:

(1) documents are stored; or

(2) vehicle sales are offered, made, or processed.

Sec. 7. (a) A dealer licensed or required to be licensed under this article shall make and maintain the records, accounts, correspondence, memoranda, papers, books, and other records required under this article.

(b) Dealer records required to be maintained under IC 9-32-5-14 and other records required under this article may be maintained in any form of data storage acceptable to the secretary if the records are readily accessible and available to copy by an investigating or auditing employee of the secretary upon demand at the place of business of the dealer.

(c) The records of a dealer licensed or required to be licensed under this article are subject to such reasonable periodic, special, or other audits or inspections by a representative of the secretary, within or outside Indiana, as the secretary considers necessary or appropriate in the public interest and for the protection of investors. An audit or inspection may be made at any time and without prior notice. The representative of the secretary may copy, and remove for audit or inspection copies of, the records the secretary reasonably considers necessary or appropriate to conduct the audit or inspection.

(d) Dealer records required to be maintained under IC 9-32-5-14 and other records required under this article must be maintained at the place of business of a dealer for a period of two

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(2) years. Following the two (2) year period, records may be moved offsite but must be maintained for a period of five (5) years.

Sec. 8. At the request of the dealer services division or equivalent regulator of another state or foreign jurisdiction, the secretary may provide assistance if the requesting regulator states that the requesting regulator is conducting an investigation to determine whether a person has violated, is violating, or is about to violate a law or rule of the other state or foreign jurisdiction relating to dealer matters that the requesting regulator administers or enforces. The secretary may provide assistance by using the authority to investigate and the powers conferred by this article as the secretary determines is necessary or appropriate. The assistance may be provided without regard to whether the conduct described in the request would also constitute a violation of this article or other law of Indiana if occurring in Indiana. In deciding whether to provide the assistance, the secretary may consider:

(1) whether the requesting regulator is permitted and has agreed to provide assistance reciprocally within the state or foreign jurisdiction of the requesting regulator to the secretary on dealer matters when requested;

(2) whether compliance with the request would violate or prejudice the public policy of Indiana; and

(3) the availability of resources and employees of the division to carry out the request for assistance.

Sec. 9. (a) A person shall cooperate in an inquiry, investigation, or inspection conducted by, or on behalf of, the division for purposes of determining whether or not a person has violated or is about to violate any provision under this article. The willful failure of a person to cooperate, absent a bona fide claim of privilege, may:

(1) be considered by the division a violation of statute; and

(2) thus subject the person to denial, suspension, or revocation of licensing or registration or a bar from licensing or registration.

(b) The following are examples of, but are not the only, conduct by a person that may be considered a failure to cooperate:

(1) The failure to timely respond by way of appearance or production of documents to a subpoena or order issued by the division.

(2) The failure to answer any question pertinent to inquiry unless the response to the question is subject to a bona fide claim of privilege.

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(3) The failure to grant the division personnel access to:

(A) the business premises of a dealer or a person required to be licensed as a dealer; or

(B) the records and documents that the dealer or person required to be licensed as a dealer is required, by statute or rule, to make available for inspection.

(4) The failure to attend a scheduled proceeding at which the appearance of the person is directed. If a person elects to retain counsel for the purpose of representation in any such proceeding, it is the responsibility of the person to do so in a timely fashion. The failure of a person to retain counsel, absent a showing of good cause, does not require an adjournment of the proceeding.

(5) The failure to timely respond to or to provide information requested under a demand under this chapter.

(6) Aiding or abetting the failure of another person to cooperate.

Sec. 10. (a) The division may examine, without notice in a manner reasonable under the circumstances, the records, within or outside Indiana, of a licensed dealer in order to determine compliance under this article. The dealer shall make the records available to the division in a legible form.

(b) The division may copy records or require a dealer to copy records and provide the copies to the division to the extent and in the manner reasonable under the circumstances.

(c) The division may impose a reasonable fee for the expense of making copies under subsection (b).

Sec. 11. (a) The secretary or a designee of the secretary may refer the facts drawn from an investigation to the prosecuting attorney of the county in which a crime is alleged to have been committed.

(b) The secretary may assist the prosecuting attorney in prosecuting an action brought subsequent to a referral made under subsection (a), which may include a division attorney serving as a special deputy prosecutor appointed by the prosecuting attorney.

(c) A prosecuting attorney to which facts concerning fraud are referred under subsection (a) may refer the matter to the attorney general.

(d) If a matter has been referred to the attorney general under subsection (c), the attorney general may:

(1) file an information in a court with jurisdiction over the matter in a county in which the offense is alleged to have been

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committed; and

(2) prosecute the alleged offense.

The secretary and the division shall assist the attorney general in prosecuting an action referred under subsection (c), which may include a division attorney serving as a special deputy attorney general appointed by the attorney general.

Sec. 12. (a) All dealers operating as a:

(1) corporation;

(2) limited liability company;

(3) limited partnership; or

(4) limited liability partnership;

shall file and maintain all filings required to remain in good standing with the secretary of state business services division.

(b) The dealer shall provide the secretary a federal tax identification number and a registered retail merchant's certificate number issued under IC 6-2.5-8.

(c) The dealer must, for the entire licensing period, have an established place of business with a physical Indiana address. The dealer may not have a mailing address that differs from the actual location of the business.

(d) The applicant and all corporate officers, partners, and owners must submit to a national criminal history background check (as defined in IC 10-13-3-12) administered by the state police at the expense of the applicant and the corporate officers, partners, and owners. The secretary may deny an application based upon felony or misdemeanor convictions related to dealing in motor vehicles.

(e) The dealer and the corporation, company, or partnership must be in good standing with the bureau, the department of state revenue, and the state police department.

Sec. 13. It is a violation of this article for a person to:

(1) make or cause to be made, in a record that is used in an action or proceeding or filed under this chapter, a statement that, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to a material fact; or

(2) in connection with a statement, omit to state a material fact necessary to make the statement made, in light of the circumstances under which it was made, not false or misleading.

Sec. 14. A witness and counsel for the witness, upon proper identification and after giving reasonable prior notice, have the

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right to inspect the official transcript of the testimony of the witness at the office of the division during normal business hours. Neither the witness, nor counsel for the witness, has the right to:

(1) remove;

(2) copy by any manner; or

(3) order a copy of the official transcript without authorization by the director.

Sec. 15. All records of the division shall be available for public inspection at the office of the division during reasonable hours, except the following, which may not be made public:

(1) Records relating to the complaints made to the division and records relating to investigations of the division.

(2) Information or documents obtained by the officers or employees of the division in the course of an audit or investigation, unless made a matter of public record, the division considers confidential.

Officers and employees of the division shall not make confidential information or documents available to anyone other than a member, officer, or employee of the secretary's office, the division, or any other regulatory or law enforcement agency, unless the secretary or director authorizes the disclosure of such information or the production of such documents as not being contrary to public interest.

Sec. 16. (a) Except as otherwise provided in subsection (b), records obtained or filed by the secretary under this article, including a record contained in or filed with an application, are available for inspecting and copying.

(b) The following records are confidential and are not available for inspecting and copying under subsection (a):

(1) A record obtained by the secretary in connection with an audit or inspection under section 7(c) of this chapter or an investigation under section 15(2) of this chapter.

(2) A part of a record filed in connection with an application that contains trade secrets or confidential information if the person filing the registration statement or report has asserted a claim of confidentiality or privilege that is authorized by law and approved by the secretary.

(3) A record that is not required to be provided to the secretary or filed under this article and is provided to the secretary only on the condition that the record will not be subject to public examination or disclosure.

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(A) Social Security number;
(B) residential address unless used as a business address; and
(C) residential telephone number unless used as a business telephone number;
contained in a record that is filed.
(5) A record obtained by the secretary through a designee of the secretary that a rule or order under this article has been:
(A) expunged from the records of the secretary by a designee; or
(B) determined to be confidential by the designee if the secretary finds the determination to be based on statutory authority.

(c) If the disclosure is for the purpose of a civil, administrative, or criminal investigation, action, or proceeding or to a person specified in section 9 of this chapter, the secretary may disclose a record obtained in connection with an audit or inspection under section 7 of this chapter or a record obtained in connection with an audit or inspection under section 2(c)(5) of this chapter.

Sec. 17. (a) If the secretary believes that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this article or a rule adopted or order issued under this article or that a person has engaged, is engaged, or is about to engage in an act, practice, or course of business that materially aids a violation of this article or a rule adopted or order issued under this article, the director may maintain an action in the circuit or superior court in the county where the investigation or inquiry in question is being conducted to enjoin the act, practice, or course of business and to enforce compliance with this article or a rule adopted or order issued under this article.

(b) In an action under this section and on a proper showing, a court may:
(1) issue a permanent or temporary injunction, restraining order, or declaratory judgment;
(2) order other appropriate or ancillary relief, which may include:
(A) an asset freeze, accounting, writ of attachment, writ of general or specific execution, and appointment of a receiver or conservator;
(B) ordering a receiver or conservator appointed under clause (A) to:

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(i) take charge and control of the property of the respondent, including investment accounts and accounts in a depository institution, rents, and profits;

(ii) collect debts; and

(iii) acquire and dispose of property;

(C) imposing a civil penalty of up to ten thousand dollars ($10,000) per violation and an order of rescission, restitution, or disgorgement directed to a person that has engaged in an act, practice, or course of business constituting a violation of this article or a rule adopted or order issued under this article; and

(D) ordering the payment of prejudgment and postjudgment interest; or

(3) order other relief that the court considers appropriate.

(c) The director may not be required to post a bond in an action or proceeding under this article.

(d) Penalties collected under this section shall be deposited in the dealer enforcement account established by IC 9-32-6-2.

Sec. 18. (a) The secretary may:

(1) conduct public or private investigations within or outside Indiana that the secretary considers necessary or appropriate to determine whether a person has violated, is violating, or is about to violate this article or a rule adopted or order issued under this article, or aid in the enforcement of this article or in the adoption of rules and forms under this article;

(2) require or permit a person to testify, file a statement, or produce a record, under oath or otherwise as the secretary determines, as to all the facts and circumstances concerning a matter to be investigated or about which an action or proceeding is to be instituted; and

(3) publish a record concerning an action, proceeding, or investigation under, or a violation of, this article or a rule adopted or order issued under this article if the secretary determines it is necessary or appropriate and in the public interest and for the protection of dealers or consumers.

(b) For purposes of an investigation under this article, the secretary or a designated employee of the secretary may administer oaths and affirmations, subpoena witnesses, seek compulsion of attendance, take attendance, take evidence, require the filing of statements, and require the production of any records that the secretary considers relevant or material to the investigation. Upon order of the secretary or a hearing officer

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appointed by the secretary in a hearing, depositions may be taken in the manner prescribed by law for depositions in civil actions and made returnable to the secretary or a hearing officer appointed by the secretary.

(c) If a person does not appear or refuses to testify, file a statement, or produce records, or otherwise does not obey a subpoena as required by this article, the secretary or hearing officer appointed by the secretary may apply to the circuit or superior court in the county where the hearing, investigation, or inquiry in question is being conducted to enforce compliance. The court may:

(1) hold the person in contempt;

(2) order the person to appear before the secretary or hearing officer appointed by the secretary;

(3) order the person to testify about the matter under investigation or in question;

(4) order the production of records;

(5) grant injunctive relief, including restricting or prohibiting the offer or sale of vehicles;

(6) impose a civil penalty of not more than twenty thousand dollars ($20,000) for each violation; and

(7) grant any other necessary or appropriate relief.

(d) This section does not preclude a person from applying to the circuit or superior court in the county where the hearing, investigation, or inquiry in question is being conducted for relief from a request to appear, testify, file a statement, produce records, or obey a subpoena.

(e) If a witness, in any hearing, inquiry, or investigation conducted under this article, refuses to answer any question or produce any item, the secretary may file a written petition with the circuit or superior court in the county where the hearing, investigation, or inquiry in question is being conducted requesting a hearing on the refusal. The court shall hold a hearing to determine if the witness may refuse to answer the question or produce the item. If the court determines that the witness, based upon the witness's privilege against self-incrimination, may properly refuse to answer or produce an item, the secretary may make a written request that the court grant use immunity to the witness. Upon written request of the secretary, the court shall grant use immunity to a witness. The court shall instruct the witness, by written order or in open court, that:

(1) any evidence the witness gives, or evidence derived from

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that evidence, may not be used in any criminal proceedings against that witness, unless the evidence is volunteered by the witness or is not responsive to a question; and

(2) the witness must answer the questions asked and produce the items requested.

A grant of use immunity does not prohibit the use of evidence that the witness gives in a hearing, investigation, or inquiry from being used in a prosecution for perjury under IC 35-44-2-1. If a witness refuses to give the evidence after the witness has been granted use immunity, the court may find the witness in contempt.

(f) In any prosecution, action, suit, or proceeding based upon or arising out of or under this article, a certificate signed by the secretary showing compliance or noncompliance with this article by the dealer constitutes prima facie evidence of compliance or noncompliance with this article and is admissible in evidence in any action at law or in equity to enforce this article.

(g) Each witness who appears before the secretary or a hearing officer appointed by the secretary by order is entitled to receive for the witness's attendance the fees and mileage provided for witnesses in civil cases, which must be audited and paid by the state in the same manner as other expenses of the division are audited and paid upon the presentation of proper vouchers sworn to by the witnesses and approved by the secretary. However, a witness subpoenaed at the instance of parties other than the secretary or a hearing officer appointed by the secretary is not entitled to any fee or compensation from the state.

Chapter 16. Penalties and Disciplinary Action

Sec. 1. Except as provided in section 8 of this chapter, a person who violates this article, a rule established under this article, or an order issued by the secretary is subject to a civil penalty of up to ten thousand dollars ($10,000) for each act of violation. Civil penalties recovered under this section shall be paid to the state and deposited into the dealer enforcement account established by IC 9-32-6-2.

Sec. 2. (a) Except as provided in subsections (b) and (c), a person who violates IC 9-32-3 commits a Class C infraction.

(b) A person who knowingly or intentionally violates IC 9-32-3-1(a)(1), IC 9-32-3-1(a)(2), IC 9-32-3-1(a)(4), IC 9-32-3-1(a)(5), or IC 9-32-3-1(d) commits a Class B misdemeanor.

(c) A person who knowingly or intentionally violates IC 9-32-3-1(a)(3) commits a:

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(1) Class A misdemeanor for the first violation; and

(2) Class D felony for a second or subsequent unrelated violation.

Sec. 3. (a) Except as provided in subsection (b), a person who knowingly or intentionally violates any of the following commits a Class A misdemeanor:

(1) IC 9-32-5-7.

(2) IC 9-32-5-10.

(3) IC 9-32-5-11(d).

(4) IC 9-32-5-12.

(b) A person who knowingly or intentionally violates IC 9-32-5-13 commits a Class C misdemeanor.

Sec. 4. A person who knowingly or intentionally violates any of the following commits a Class B misdemeanor:

(1) IC 9-32-8-1.

(2) IC 9-32-8-2.

(3) IC 9-32-8-10.

Sec. 5. A person who knowingly or intentionally violates:

(1) IC 9-32-10-1; or

(2) IC 9-32-10-12;

commits a Class A misdemeanor.

Sec. 6. (a) Except as provided in subsection (b), a person who knowingly or intentionally violates IC 9-32-12 commits a Class B misdemeanor.

(b) A person who knowingly or intentionally violates:

(1) IC 9-32-12-25; or

(2) IC 9-32-12-26;

commits a Class A misdemeanor.

Sec. 7. A person who knowingly or intentionally violates IC 9-32-15-13 commits a Class D felony.

Sec. 8. A dealer who fails to deliver a certificate of origin or title under IC 9-32-4-2 or IC 9-32-4-8 or fails to deliver timely a certificate of title under IC 9-32-3-1(c) is subject to the following civil penalties:

(1) One hundred dollars ($100) for the first violation in a calendar year.

(2) Two hundred fifty dollars ($250) for the second violation in a calendar year.

(3) Five hundred dollars ($500) for all subsequent violations in a calendar year.

Payment shall be made to the secretary and deposited in the dealer enforcement account established under IC 9-32-6-2.

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Sec. 9. A retail lessor who fails to comply with IC 9-32-11, as set forth in IC 9-32-11-4, is liable to the retail lessee for:

(1) actual damages sustained;

(2) a civil penalty of not more than one thousand dollars ($1,000) per lease transaction; and

(3) reasonable attorney's fees and costs.

Sec. 10. In addition to all other remedies, the secretary may seek the following remedies against a person that violates, attempts to violate, or assists in a violation of or an attempt to violate IC 9-32-15:

(1) An injunction.

(2) Appointment of a receiver or conservator.

(3) A civil penalty not to exceed ten thousand dollars ($10,000) per violation.

(4) An action to enforce a civil penalty assessed under subdivision (3).

Civil penalties recovered under this section shall be paid to the state and deposited into the dealer enforcement account established by IC 9-32-6-2.

SECTION 77. IC 23-17-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The secretary of state may commence a proceeding under section 2 of this chapter to administratively dissolve a corporation if the following occur:

(1) The corporation does not pay within sixty (60) days after they are due any taxes or penalties imposed by this article or other law.

(2) The corporation does not deliver the corporation's annual report to the secretary of state within sixty (60) days after the report is due.

(3) The corporation is without a registered agent or registered office in Indiana for at least sixty (60) days.

(4) The corporation does not notify the secretary of state within sixty (60) days that the corporation's:

(A) registered agent or registered office has been changed;

(B) registered agent has resigned; or

(C) registered office has been discontinued.

(5) The corporation's period of duration, if any, stated in the corporation's articles of incorporation expires.

(6) The secretary receives credible evidence that the corporation is engaged in:

(A) illegal activity; or

(B) activity not authorized by the corporation's articles of incorporation.

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SECTION 78. IC 23-19-6-1, AS AMENDED BY P.L.114-2010, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) This article shall be administered by a division of the office of the secretary of state. The secretary of state shall appoint a securities commissioner who shall be responsible for the direction and supervision of the division and the administration of this article under the direction and control of the secretary of state. The salary of the securities commissioner shall be paid out of the funds appropriated for the administration of this article. The commissioner shall serve at the will of the secretary of state.

(b) The secretary of state:

(1) shall employ a chief deputy, attorneys, a senior investigator, a senior accountant, and other deputies, investigators, accountants, clerks, stenographers, and other employees necessary for the administration of this article; and

(2) shall fix their compensation with the approval of the budget agency.

(c) It is unlawful for the commissioner or an officer, employee, or designee of the commissioner to use for personal benefit or the benefit of others records or other information obtained by or filed with the commissioner that are not public under section 7(b) of this chapter. This article does not authorize the commissioner or an officer, employee, or designee of the commissioner to disclose the record or information, except in accordance with section 2, 7(c), or 8 of this chapter.

(d) This article does not create or diminish a privilege or exemption that exists at common law, by statute or rule, or otherwise.

(e) Subject to IC 4-2-6-15, the commissioner may develop and implement investor education initiatives to inform the public about investing in securities, with particular emphasis on the prevention and detection of securities fraud. In developing and implementing these initiatives, the commissioner may collaborate with public and nonprofit organizations with an interest in investor education. The commissioner may accept a grant or donation from a person that is not affiliated with the securities industry or from a nonprofit organization, regardless of whether the organization is affiliated with the securities industry, to develop and implement investor education initiatives. This subsection does not authorize the commissioner to require participation or monetary contributions of a registrant in an investor education program.

(f) Fees and funds of whatever character accruing from the administration of this article shall be accounted for by the secretary of

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state and shall be deposited with the treasurer of state to be deposited by the treasurer of ~~the~~ state in either the state general fund or the enforcement account referenced below. Subject to IC 4-2-6-15, expenses incurred in the administration of this article shall be paid from the state general fund upon appropriation being made for the expenses in the manner provided by law for the making of those appropriations. However, grants and donations received under subsection (e), costs of investigations recovered under section 4(e) of this chapter, and civil penalties recovered under sections 3(b) and 4(d) of this chapter shall be deposited by the treasurer of state in a separate account to be known as the securities division enforcement account. Notwithstanding ~~IC 9-23-6-4,~~ IC 23-2-2.5-34, IC 23-2-2.5-43, IC 23-2-5-7, IC 23-19-4-12, IC 25-11-1-15, and this chapter, five percent (5%) of funds received ~~after June 30, 2010,~~ for deposit in the enforcement account shall instead be deposited in the securities restitution fund established under ~~IC 23-20-1-26.~~ **IC 23-20-1-25.** Subject to IC 4-2-6-15, the funds deposited in the enforcement account shall be available, with the approval of the budget agency:

(1) to augment and supplement the funds appropriated for the administration of this article; and

(2) for grants and awards to nonprofit entities for programs and activities that will further investor education and financial literacy in the state.

The funds in the enforcement account do not revert to the state general fund at the end of any state fiscal year.

(g) In connection with the administration and enforcement of this article, the attorney general shall render all necessary assistance to the commissioner upon the commissioner's request, and to that end, the attorney general shall employ legal and other professional services as are necessary to adequately and fully perform the service under the direction of the commissioner as the demands of the securities division shall require. Expenses incurred by the attorney general for the purposes stated in this subsection shall be chargeable against and paid out of funds appropriated to the attorney general for the administration of the attorney general's office. The attorney general may authorize the commissioner and the commissioner's designee to represent the commissioner and the securities division in any proceeding involving enforcement or defense of this article.

(h) Neither the secretary of state, the commissioner, nor an employee of the securities division shall be liable in their individual capacity, except to the state, for an act done or omitted in connection with the performance of their respective duties under this article.

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(i) The commissioner shall take, prescribe, and file the oath of office prescribed by law. The commissioner, chief deputy commissioner, and each attorney or investigator designated by the commissioner are police officers of the state and shall have all the powers and duties of police officers in making arrests for violations of this article, or in serving any process, notice, or order connected with the enforcement of this article by whatever officer, authority, or court issued and shall comprise the enforcement department of the division and are considered a criminal justice agency for purposes of IC 5-2-4 and IC 10-13-3.

(j) The provisions of this article delegating and granting power to the secretary of state, the securities division, and the commissioner shall be liberally construed to the end that:

(1) the practice or commission of fraud may be prohibited and prevented;

(2) disclosure of sufficient and reliable information in order to afford reasonable opportunity for the exercise of independent judgment of the persons involved may be assured; and

(3) the qualifications may be prescribed to assure availability of reliable broker-dealers, investment advisers, and agents engaged in and in connection with the issuance, barter, sale, purchase, transfer, or disposition of securities in this state.

It is the intent and purpose of this article to delegate and grant to and vest in the secretary of state, the securities division, and the commissioner full and complete power to carry into effect and accomplish the purpose of this article and to charge them with full and complete responsibility for its effective administration.

(k) Copies of any statement and documents filed in the office of the secretary of state and of any records of the secretary of state certified by the commissioner shall be admissible in any prosecution, action, suit, or proceeding based upon, arising out of, or under this article to the same effect as the original of such statement, document, or record would be if actually produced.

(l) IC 4-21.5 is not applicable to any of the proceedings under this article.

SECTION 79. IC 24-4-6-1, AS AMENDED BY P.L.156-2006, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. (a) This section does not apply to a person that holds a special event permit issued under ~~IC 9-23-2-16.~~ **IC 9-32-10-16.**

(b) A person who engages in the business of buying, selling, or trading motor vehicles on Sunday commits a Class B misdemeanor.

SECTION 80. IC 24-5-13-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 15. (a) A reasonable

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number of attempts is considered to have been undertaken to correct a nonconformity if:

(1) the nonconformity has been subject to repair at least four (4) times by the manufacturer or its agents or authorized dealers, but the nonconformity continues to exist; or

(2) the vehicle is out of service by reason of repair of any nonconformity for a cumulative total of at least thirty (30) business days, and the nonconformity continues to exist.

(b) The thirty (30) business day period in subsection (a)(2) shall be extended by any period of time during which repair services are not available as a direct result of a strike, **civil unrest, a fire, a natural disaster, a terrorist attack, an act of God, or an act of war.** The manufacturer, its agent, or **an** authorized dealer shall provide or make provision for the free use of a vehicle to any buyer whose vehicle is out of service by reason of repair during a strike, **a period of civil unrest, a fire, a natural disaster, a terrorist attack, an act of God, or an act of war.**

(c) The burden is on the manufacturer to show that the reason for an extension under subsection (b) was the direct cause for the failure of the manufacturer, its agent, or authorized dealer to cure any nonconformity during the time of the event.

SECTION 81. IC 35-51-9-1, AS ADDED BY P.L.70-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 1. The following statutes define crimes in IC 9:

IC 9-14-3.5-15 (Concerning bureau of motor vehicles).

IC 9-14-5-9 (Concerning parking placards for persons with physical disabilities).

IC 9-17-2-15 (Concerning certificates of title).

IC 9-17-2-16 (Concerning certificates of title).

IC 9-17-3-3.2 (Concerning certificates of title).

IC 9-17-3-7 (Concerning certificates of title).

IC 9-17-4-6 (Concerning certificates of title).

IC 9-18-2-42 (Concerning motor vehicle registration and license plates).

IC 9-18-2-44 (Concerning motor vehicle registration and license plates).

IC 9-18-2-45 (Concerning motor vehicle registration and license plates).

IC 9-18-4-8 (Concerning motor vehicle registration and license plates).

IC 9-18-8-11 (Concerning motor vehicle registration and license plates).

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IC 9-18-8-12 (Concerning motor vehicle registration and license plates).
IC 9-18-8-13 (Concerning motor vehicle registration and license plates).
IC 9-18-8-14 (Concerning motor vehicle registration and license plates).
IC 9-18-8-15 (Concerning motor vehicle registration and license plates).
IC 9-18-13-9 (Concerning motor vehicle registration and license plates).
IC 9-18-22-6 (Concerning motor vehicle registration and license plates).
~~IC 9-18-26-11 (Concerning motor vehicle registration and license plates).~~
~~IC 9-18-26-13 (Concerning motor vehicle registration and license plates).~~
IC 9-18-27-9 (Concerning motor vehicle registration and license plates).
IC 9-19-9-5 (Concerning motor vehicle equipment).
IC 9-19-10.5-4 (Concerning motor vehicle equipment).
IC 9-19-10.5-5 (Concerning motor vehicle equipment).
IC 9-20-18-4 (Concerning motor vehicle size and weight regulation).
IC 9-21-5-13 (Concerning traffic regulation).
IC 9-21-6-3 (Concerning traffic regulation).
IC 9-21-8-50 (Concerning traffic regulation).
IC 9-21-8-52 (Concerning traffic regulation).
IC 9-21-8-55 (Concerning traffic regulation).
IC 9-21-8-56 (Concerning traffic regulation).
IC 9-21-8-58 (Concerning traffic regulation).
IC 9-21-12-9 (Concerning traffic regulation).
IC 9-21-12-11 (Concerning traffic regulation).
IC 9-22-3-31 (Concerning abandoned, salvaged, and scrap vehicles).
IC 9-22-3-32 (Concerning abandoned, salvaged, and scrap vehicles).
IC 9-22-3-33 (Concerning abandoned, salvaged, and scrap vehicles).
IC 9-22-5-17 (Concerning abandoned, salvaged, and scrap vehicles).
IC 9-22-5-18 (Concerning buying a motor vehicle without a certificate of title).

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~~IC 9-23-6-1 (Concerning vehicle manufacturers, distributors, and dealers).~~
IC 9-24-1-8 (Concerning driver's licenses).
IC 9-24-6-16 (Concerning driver's licenses).
IC 9-24-6-17 (Concerning driver's licenses).
IC 9-24-11-8 (Concerning driver's licenses).
IC 9-24-15-11 (Concerning driver's licenses).
IC 9-24-16-12 (Concerning driver's licenses).
IC 9-24-16-13 (Concerning driver's licenses).
IC 9-24-18-1 (Concerning driver's licenses).
IC 9-24-18-2 (Concerning driver's licenses).
IC 9-24-18-7 (Concerning driver's licenses).
IC 9-24-19-2 (Concerning driver's licenses).
IC 9-24-19-3 (Concerning driver's licenses).
IC 9-24-19-4 (Concerning driver's licenses).
IC 9-25-6-18 (Concerning financial responsibility).
IC 9-25-8-2 (Concerning financial responsibility).
IC 9-26-1-8 (Concerning accidents and accident reports).
IC 9-26-1-9 (Concerning accidents and accident reports).
IC 9-26-6-4 (Concerning accidents and accident reports).
IC 9-30-4-7 (Concerning licenses and registrations).
IC 9-30-4-8 (Concerning licenses and registrations).
IC 9-30-4-13 (Concerning licenses and registrations).
IC 9-30-5-1 (Concerning operating a vehicle while intoxicated).
IC 9-30-5-2 (Concerning operating a vehicle while intoxicated).
IC 9-30-5-3 (Concerning operating a vehicle while intoxicated).
IC 9-30-5-4 (Concerning operating a vehicle while intoxicated).
IC 9-30-5-5 (Concerning operating a vehicle while intoxicated).
IC 9-30-5-7 (Concerning operating a vehicle while intoxicated).
IC 9-30-5-8 (Concerning operating a vehicle while intoxicated).
IC 9-30-6-8.7 (Concerning implied consent).
IC 9-30-9-7.5 (Concerning alcohol abuse deterrent programs).
IC 9-30-10-16 (Concerning habitual violator of traffic laws).
IC 9-30-10-17 (Concerning habitual violator of traffic laws).
IC 9-30-10-17.5 (Concerning habitual violator of traffic laws).
IC 9-31-2-26 (Concerning watercraft titling and registration).
IC 9-31-2-27 (Concerning watercraft titling and registration).
IC 9-31-2-28 (Concerning watercraft titling and registration).
IC 9-32-16-2 (Concerning certificates of title).
IC 9-32-16-3 (Concerning dealer license plates).
IC 9-32-16-4 (Concerning licensing of vehicle salvaging).
IC 9-32-16-5 (Concerning regulation of vehicle

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merchandising).

IC 9-32-16-6 (Concerning unfair practices by dealers).

IC 9-32-16-7 (Concerning administration and judicial review by the dealer services division of the secretary of state).

SECTION 82. [EFFECTIVE JULY 1, 2012] **(a) The legislative services agency shall prepare legislation for introduction in the 2013 regular session of the general assembly to organize and correct statutes affected by this act, if necessary.**

(b) This SECTION expires December 31, 2013.

SECTION 83. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred House Bill 1222, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 7, delete lines 36 through 37.

Page 8, delete lines 26 through 42, begin a new paragraph and insert:

"SECTION 18. IC 9-13-2-66.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 66.5. "Flood damaged vehicle", for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-13.**

SECTION 19. IC 9-13-2-67 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 67. "Franchise", ~~means an oral or a written agreement for a definite or an indefinite period in which a manufacturer or distributor grants to a dealer a right to use a trade name, trade or service mark, or related characteristic, and in which there is a community of interest in the marketing of motor vehicles or related services at retail or otherwise.~~ **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-14.**

SECTION 20. IC 9-13-2-68 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 68. "Franchisee", ~~means a dealer to whom a franchise is granted.~~ **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-15.**

SECTION 21. IC 9-13-2-69 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 69. "Franchisor", ~~means a manufacturer or distributor who grants a franchise to a dealer.~~ **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-16.**

SECTION 22. IC 9-13-2-90 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 90. "Labor rate", ~~means the hourly labor rate charged by a franchisee for service, filed periodically with the bureau as the bureau may require, and posted prominently in the franchisee's service department.~~ **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-17.**

SECTION 23. IC 9-13-2-92.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 92.5. "Lease agreement", for purposes of ~~IC 9-23-2.5,~~ **IC 9-32,** has the meaning set forth in ~~IC 9-23-2.5-4.~~ **IC 9-32-1-18.**

SECTION 24. IC 9-13-2-92.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 92.7. "Lease transaction", for purposes of ~~IC 9-23-2.5,~~ **IC 9-32,** has the meaning set

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forth in ~~IC 9-23-2.5-5.~~ **IC 9-32-1-19.**

SECTION 25. IC 9-13-2-98.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 98.5. "Material fact", for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-20.**

SECTION 26. IC 9-13-2-105, AS AMENDED BY P.L.9-2010, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 105. (a) "Motor vehicle" means, except as otherwise provided in this section, a vehicle that is self-propelled. The term does not include a farm tractor, an implement of agriculture designed to be operated primarily in a farm field or on farm premises, or an electric personal assistive mobility device.

(b) "Motor vehicle", for purposes of IC 9-21, means:

(1) a vehicle except a motorized bicycle that is self-propelled; or

(2) a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(c) "Motor vehicle", for purposes of IC 9-19-10.5 and IC 9-25, means a vehicle that is self-propelled upon a highway in Indiana. The term does not include a farm tractor.

(d) "Motor vehicle", for purposes of IC 9-30-10, does not include a motorized bicycle.

(e) "Motor vehicle", for purposes of ~~IC 9-23-2 and IC 9-23-3,~~ **IC 9-32-13,** includes a semitrailer.

(f) "Motor vehicle", for purposes of IC 9-24-6, has the meaning set forth in 49 CFR 383.5 as in effect July 1, 2010.

SECTION 27. IC 9-13-2-114.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 114.5. "Offer to sell" means every attempt or offer to dispose of, or solicitation of an offer to purchase, a motor vehicle or interest in a motor vehicle for hire.**

SECTION 28. IC 9-13-2-149.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 149.5. **(a)** "Record", for purposes of IC 9-14-3.5, has the meaning set forth in IC 9-14-3.5-6.

(b) "Record", for purposes of IC 9-32-5-14, has the meaning set forth in IC 9-32-1-21.

SECTION 29. IC 9-13-2-151.5, AS AMENDED BY P.L.37-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 151.5. "Relevant market area", for purposes of ~~IC 9-23-3, means the following:~~

~~(1) With respect to a new motor vehicle dealer who plans to relocate the dealer's place of business in a county having a population of more than one hundred thousand (100,000), the area~~

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~~within a radius of six (6) miles of the intended site of the relocated dealer. The six (6) mile distance shall be determined by measuring the distance between the nearest surveyed boundary of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the relocated new motor vehicle dealer's place of business.~~

~~(2) With respect to a:~~

~~(A) proposed new motor vehicle dealer; or~~

~~(B) new motor vehicle dealer who plans to relocate the dealer's place of business in a county having a population that is not more than one hundred thousand (100,000);~~

~~the area within a radius of ten (10) miles of the intended site of the proposed or relocated dealer. The ten (10) mile distance shall be determined by measuring the distance between the nearest surveyed boundary line of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the proposed or relocated new motor vehicle dealer's principal place of business.~~

IC 9-32, has the meaning set forth in IC 9-32-1-22.

SECTION 30. IC 9-13-2-154.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 154.5. "Retail lessee", for purposes of ~~IC 9-23-2.5,~~ **IC 9-32,** has the meaning set forth in ~~IC 9-23-2.5-6.~~ **IC 9-32-1-23.**

SECTION 31. IC 9-13-2-154.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 154.6. "Retail lessor", for purposes of ~~IC 9-23-2.5,~~ **IC 9-32,** has the meaning set forth in ~~IC 9-23-2.5-7.~~ **IC 9-32-1-24.**

SECTION 32. IC 9-13-2-159.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 159.5. "Sale", for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-25.**

SECTION 33. IC 9-13-2-162 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 162. "Scrap metal processor" means a private, commercial, or governmental enterprise ~~having~~ **that engages in the acquisition of motor vehicles, motorcycles, semitrailers, or recreational vehicles or the remains of these vehicles and that has** facilities for processing iron, steel, or nonferrous scrap and whose principal product is scrap iron, scrap steel, or nonferrous scrap for sale for remelting purposes. ~~A scrap metal processor is not a disposal facility or a used parts dealer.~~

SECTION 34. IC 9-13-2-162.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2012]: **Sec. 162.5. "Secretary", for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-26.**

SECTION 35. IC 9-13-2-185 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 185. "Transfer dealer", ~~means a person other than a dealer, manufacturer, or wholesale dealer who has the necessity of transferring a minimum of twelve (12) motor vehicles during a license year as part of the transfer dealer's primary business function.~~ **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-27.**

SECTION 36. IC 9-13-2-191.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 191.5. "Uniform time standards manual", for purposes of ~~IC 9-23-3,~~ **IC 9-32,** has the meaning set forth in ~~IC 9-23-3-0.5.~~ **IC 9-32-1-28.**

SECTION 37. IC 9-13-2-195 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 195. "Used parts dealer", ~~means a person who primarily buys, sells, barters, exchanges, or deals in used major component parts. The term does not include a scrap metal processor.~~ **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-29.**

SECTION 38. IC 9-13-2-199 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 199. "Wholesale dealer", ~~means a person who is engaged in the business of buying or selling motor vehicles for resale to other dealers, wholesale dealers, transfer dealers, or persons other than the general public.~~ **for purposes of IC 9-32, has the meaning set forth in IC 9-32-1-30.**".

Delete pages 9 through 11.

Page 12, delete lines 1 through 22.

Page 12, line 32, delete "IC 9-32-11." and insert "**IC 9-32-10.**".

Page 12, line 34, delete "IC 9-32-11" and insert "**IC 9-32-10**".

Page 12, line 35, strike "standards adopted by the".

Page 12, line 36, strike "commission under IC 9-15-2-1(7) and the".

Page 13, delete lines 6 through 42.

Delete page 14.

Page 15, delete lines 1 through 10.

Page 18, delete lines 39 through 42.

Page 19, delete lines 1 through 7.

Page 20, delete lines 7 through 8, begin a new paragraph and insert:

"SECTION 48. IC 9-22-3-18.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 18.5. (a) This section does not apply to a person who sells, exchanges, or transfers golf carts.**

(b) A seller that is:

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(1) a dealer; or

(2) another person who sells, exchanges, or transfers at least five (5) vehicles each year;

may not sell, exchange, or transfer a rebuilt vehicle without disclosing in writing to the purchaser, customer, or transferee, before consummating the sale, exchange, or transfer, the fact that the vehicle is a rebuilt vehicle if the dealer or other person knows or should reasonably know the vehicle is a rebuilt vehicle.

SECTION 49. IC 9-22-3-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 33. **(a)** A person who violates section 4, 5, 6, 7, 8, or 9 of this chapter commits a Class D felony.

(b) A person who violates section 18.5 of this chapter commits a Class A misdemeanor.".

Page 20, delete lines 11 through 14, begin a new paragraph and insert:

SECTION 51. IC 9-22-5-16 IS REPEALED [EFFECTIVE JULY 1, 2012]. ~~Sec. 16. (a) This section does not apply to a person who sells, exchanges, or transfers golf carts.~~

~~(b) A seller that is:~~

~~(1) a dealer; or~~

~~(2) another person who sells, exchanges, or transfers at least five (5) vehicles each year;~~

~~may not sell, exchange, or transfer a rebuilt vehicle without disclosing in writing to the purchaser, customer, or transferee, before consummating the sale, exchange, or transfer, the fact that the vehicle is a rebuilt vehicle if the dealer or other person knows or should reasonably know the vehicle is a rebuilt vehicle.~~

SECTION 52. IC 9-22-5-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 18. (a) A disposal facility, a scrap metal processor, or an agent of a disposal facility or scrap metal processor may purchase a motor vehicle without a certificate of title for the motor vehicle if:**

(1) the motor vehicle is at least fifteen (15) model years old;

(2) the purchase is solely for the purpose of dismantling or wrecking the motor vehicle for the recovery of scrap metal or the sale of parts; and

(3) the disposal facility or scrap metal processor records all purchase transactions of vehicles as required in subsection (b).

(b) A disposal facility or scrap metal processor shall maintain

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the following information with respect to each motor vehicle purchase transaction to which the disposal facility or scrap metal processor is a party for at least two (2) years following the date of the purchase transaction:

(1) The name and address of any secondary metals recycler or salvage yard.

(2) The name, initials, or other identifying symbol of the person entering the information.

(3) The date of the purchase transaction.

(4) A description of the motor vehicle that was the subject of the purchase transaction, including the make and model of the motor vehicle, if practicable.

(5) The vehicle identification number of the motor vehicle.

(6) The amount of consideration given for the motor vehicle.

(7) A written statement signed by the seller or the seller's agent certifying that the seller or the seller's agent has the lawful right to sell and dispose of the motor vehicle.

(8) The name and address of the person from whom the motor vehicle is being purchased.

(9) A photocopy or electronic scan of one (1) of the following forms of identification issued to the seller or the seller's agent:

(A) A current and valid driver's license.

(B) An identification card issued under IC 9-24-16-1 or a similar card issued under the laws of another state or the federal government.

(C) A government issued document bearing an image of the seller or seller's agent, as applicable.

For purposes of complying with this subdivision, a disposal facility or scrap metal processor is not required to make a separate copy of the seller's or seller's agent's identification for each purchase transaction involving the seller or seller's agent but may instead refer to a copy maintained in reference to a particular purchase transaction.

(c) A disposal facility or scrap metal processor may not complete a purchase transaction in the absence of the information required under subsection (b)(9).

(d) A disposal facility, a scrap metal processor, or an agent of a disposal facility or scrap metal processor that knowingly, intentionally, or recklessly buys a motor vehicle that is less than fifteen (15) model years old without a certificate of title for the motor vehicle commits a Class D felony.".

Page 20, delete lines 30 through 42.

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Page 21, delete lines 1 through 5.

Page 21, delete lines 41 through 42.

Page 22, delete lines 1 through 17.

Page 22, delete lines 31 through 35, begin a new paragraph and insert:

"SECTION 80. IC 9-29-7-7, AS AMENDED BY P.L.110-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 7. The revenues from the

~~(1)~~ certificate of salvage titles collected under IC 9-22-3 ~~and~~

~~(2) license fees collected under IC 9-22-4;~~

shall be deposited in the motor vehicle highway account.".

Page 24, delete lines 6 through 21.

Page 24, line 22, delete "9." and insert "**7.**".

Page 24, line 22, delete "IC 9-32-9" and insert "**IC 9-32-8**".

Page 24, line 24, delete "IC 9-32-9" and insert "**IC 9-32-8**".

Page 24, line 26, delete "IC 9-32-9" and insert "**IC 9-32-8**".

Page 24, line 29, delete "IC 9-32-9" and insert "**IC 9-32-8**".

Page 24, line 31, delete "10." and insert "**8.**".

Page 24, line 32, delete "IC 9-32-11-1" and insert "**IC 9-32-10-1**".

Page 24, line 35, delete "11." and insert "**9.**".

Page 24, line 36, delete "IC 9-32-11-1" and insert "**IC 9-32-10-1**".

Page 24, line 41, delete "12." and insert "**10.**".

Page 25, line 2, delete "IC 9-32-11-1" and insert "**IC 9-32-10-1**".

Page 25, line 13, delete "13." and insert "**11.**".

Page 25, line 14, delete "IC 9-32-11-4" and insert "**IC 9-32-10-4**".

Page 25, line 15, delete "14." and insert "**12.**".

Page 25, line 16, delete "IC 9-32-11-9" and insert "**IC 9-32-10-9**".

Page 25, line 17, delete "15." and insert "**13.**".

Page 25, line 18, delete "IC 9-32-11-16 "and insert "**IC 9-32-10-16**".

Page 25, line 19, delete "16." and insert "**14.**".

Page 25, line 21, delete "sections 8 through 9" and insert "**section 7**".

Page 25, delete lines 37 through 40, begin a new paragraph and insert:

"**Sec. 15. The revenue from the license fees collected under IC 9-32-8 shall be deposited in the motor vehicle highway account.**".

Page 25, line 41, delete "18." and insert "**16.**".

Page 25, line 41, delete "13" and insert "**11**".

Page 25, line 41, delete "15" and insert "**13**".

Page 26, between lines 29 and 30, begin a new paragraph and insert:

"**Chapter 0.5. Application**

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Sec. 1. Nothing in this article shall be construed to limit the authority of the bureau to administer this title.".

Page 26, line 39, delete "IC 9-32-10-1." and insert "**IC 9-32-9-1.**".

Page 28, delete lines 30 through 42 and insert:

"**Sec. 13. (a) "Flood damaged vehicle" means a passenger motor vehicle that satisfies either of the following:**

(1) The vehicle has been acquired by an insurance company as part of a damage settlement due to water damage.

(2) The vehicle has been submerged in water to the point that rising water has reached over the door sill, has entered the passenger or trunk compartment, and has exposed any electrical, computerized, or mechanical component to water.

(b) The term does not include a passenger motor vehicle that an inspection conducted by an insurance adjuster or estimator, a motor vehicle repairer, or a motor vehicle dealer determines:

(1) has no electrical, computerized, or mechanical components that were damaged by water; or

(2) has one (1) or more electrical, computerized, or mechanical components that were damaged by water, and all such damaged components have been repaired or replaced.

Sec. 14. "Franchise" means an oral or a written agreement for a definite or an indefinite period in which a manufacturer or distributor grants to a dealer a right to use a trade name, trade or service mark, or related characteristic, and in which there is a community of interest in the marketing of motor vehicles or related services at retail or otherwise.

Sec. 15. "Franchisee" means a dealer to whom a franchise is granted.

Sec. 16. "Franchisor" means a manufacturer or distributor who grants a franchise to a dealer.

Sec. 17. "Labor rate" means the hourly labor rate charged by a franchisee for service, filed periodically with the division as the division may require, and posted prominently in the franchisee's service department.

Sec. 18. "Lease agreement" means a written agreement entered into in Indiana for the transfer from a retail lessor to a retail lessee of the right to possess and use a motor vehicle in exchange for consideration for a scheduled term exceeding four (4) months, whether or not the retail lessee has the option to purchase or otherwise become the owner of the motor vehicle upon expiration of the agreement. The term does not include an agreement that covers an absolute sale, a sale pending approval, or a retail

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installment sale.

Sec. 19. "Lease transaction" means a presentation made to a retail lessee concerning a motor vehicle, including a sales presentation or a document presented to the retail lessee, resulting in the execution of a lease agreement.

Sec. 20. "Material fact" includes, but is not limited to:

(1) the misinformation or omission of any information to the division; or

(2) any misinformation or omission of any information to a consumer in the course of an offer of sale.

Sec. 21. "Record" includes, but is not limited to, the following:

(1) Bills of sale.

(2) Finance agreements.

(3) Titles.

(4) Inventory records.

(5) Sales receipts from auctions.

(6) Form ST-108 (department of state revenue certificate of gross retail or use tax paid on the purchase of a motor vehicle or watercraft).

(7) Interim plate log.

Sec. 22. "Relevant market area" means the following:

(1) With respect to a new motor vehicle dealer who plans to relocate the dealer's place of business in a county having a population of more than one hundred thousand (100,000), the area within a radius of six (6) miles of the intended site of the relocated dealer. The six (6) mile distance shall be determined by measuring the distance between the nearest surveyed boundary of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the relocated new motor vehicle dealer's place of business.

(2) With respect to a:

(A) proposed new motor vehicle dealer; or

(B) new motor vehicle dealer who plans to relocate the dealer's place of business in a county having a population that is not more than one hundred thousand (100,000);

the area within a radius of ten (10) miles of the intended site of the proposed or relocated dealer. The ten (10) mile distance shall be determined by measuring the distance between the nearest surveyed boundary line of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the proposed or relocated new motor vehicle dealer's principal place of business.

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Sec. 23. "Retail lessee" means an individual who executes a lease agreement for a motor vehicle from a retail lessor primarily for personal, family, or household purposes.

Sec. 24. "Retail lessor" means a person who regularly engages in the business of selling or leasing motor vehicles and who offers or arranges a lease agreement for a motor vehicle. The term includes an agent or affiliate who acts on behalf of the retail lessor and excludes any assignee of the lease agreement.

Sec. 25. "Sale" includes every contract of sale, contract to sell, or disposition of a motor vehicle or interest in a motor vehicle for value.

Sec. 26. "Secretary" refers to the secretary of state holding office as set forth in IC 4-5-1-1.

Sec. 27. "Transfer dealer" means a person other than a dealer, manufacturer, or wholesale dealer who has the necessity of transferring at least twelve (12) motor vehicles during a license year as part of the transfer dealer's primary business function.

Sec. 28. "Uniform time standards manual" means a schedule established by a manufacturer or distributor setting forth the time allowances for the diagnosis and performance of warranty work and service.

Sec. 29. "Used parts dealer" means a person who primarily buys, sells, barters, exchanges, or deals in used major component parts. The term does not include a scrap metal processor.

Sec. 30. "Wholesale dealer" means a person who is engaged in the business of buying or selling motor vehicles for resale to other dealers, wholesale dealers, transfer dealers, or persons other than the general public.".

Delete pages 29 through 30.

Page 31, delete lines 1 through 19.

Page 31, delete lines 39 through 42.

Page 32, delete lines 1 through 35.

Page 32, line 36, delete "2." and insert "**1.**".

Page 33, line 37, delete "violation." and insert "**violation in a calendar year.**".

Page 33, line 38, delete "violation." and insert "**violation in a calendar year.**".

Page 33, line 39, delete "violations." and insert "**violations in a calendar year.**".

Page 34, line 42, delete "five (5)" and insert "**ten (10)**".

Page 35, line 2, delete "3." and insert "**2.**".

Page 37, line 37, delete "IC 9-32-11" and insert "**IC 9-32-10**".

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Page 41, line 15, delete "IC 9-32-11" and insert "**IC 9-32-10**".

Page 41, line 29, delete "IC 9-29-17-16(b);" and insert "**IC 9-29-17-14(b);**".

Page 41, line 30, delete "IC 9-29-17-16(c);" and insert "**IC 9-29-17-14(c);**".

Page 41, line 31, delete "IC 9-29-17-18;" and insert "**IC 9-29-17-16;**".

Page 42, line 3, delete "IC 9-32-3-2(c);" and insert "**IC 9-32-3-1(c);**".

Page 42, line 4, delete "IC 9-32-16-1(f);" and insert "**IC 9-32-15-1(f);**".

Page 42, line 5, delete "IC 9-32-16-17 (d);" and insert "**IC 9-32-15-17(d);**".

Page 42, line 6, delete "IC 9-32-17-9;" and insert "**IC 9-32-16-8;**".

Page 42, line 7, delete "IC 9-32-17-11." and insert "**IC 9-32-16-10.**".

Page 42, line 25, delete "IC 9-29-17-10" and insert "**IC 9-29-17-8**".

Page 42, line 25, delete "IC 9-29-17-12" and insert "**IC 9-29-17-10**".

Page 43, delete line 42.

Delete pages 44 through 51.

Page 52, delete lines 1 through 34.

Page 52, line 35, delete "9." and insert "**8.**".

Page 53, line 18, delete "IC 9-29-17-9." and insert "**IC 9-29-17-7.**".

Page 54, line 14, delete "IC 9-32-16." and insert "**IC 9-32-15.**".

Page 55, line 6, delete "10." and insert "**9.**".

Page 56, line 28, delete "11." and insert "**10.**".

Page 63, line 10, delete "IC 9-29-17-15." and insert "**IC 9-29-17-13.**".

Page 63, line 14, delete "12." and insert "**11.**".

Page 64, line 16, delete "13." and insert "**12.**".

Page 65, line 17, delete "(a)".

Page 65, delete lines 29 through 30.

Page 74, line 9, delete "14." and insert "**13.**".

Page 74, line 41, delete "15." and insert "**14.**".

Page 76, line 21, delete "16." and insert "**15.**".

Page 89, line 42, delete "17." and insert "**16.**".

Page 90, line 1, delete "Except as provided in section 9 of this chapter, a person" and insert "**Except as provided in section 8 of this chapter, a person who violates this article, a rule established under this article, or an order issued by the secretary is subject to a civil penalty of up to ten thousand dollars ($10,000) for each act of violation. Civil penalties recovered under this section shall be paid to the state and deposited into the dealer enforcement account**

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established by IC 9-32-6-2.

Sec. 2. (a) Except as provided in subsections (b) and (c), a person who violates IC 9-32-3 commits a Class C infraction.

(b) A person who knowingly or intentionally violates IC 9-32-3-1(a)(1), IC 9-32-3-1(a)(2), IC 9-32-3-1(a)(4), IC 9-32-3-1(a)(5), or IC 9-32-3-1(d) commits a Class B misdemeanor.

(c) A person who knowingly or intentionally violates IC 9-32-3-1(a)(3) commits a:

(1) Class A misdemeanor for the first violation; and

(2) Class D felony for a second or subsequent unrelated violation.

Sec. 3. (a) Except as provided in subsection (b), a person who knowingly or intentionally violates any of the following commits a Class A misdemeanor:

(1) IC 9-32-5-7.

(2) IC 9-32-5-10.

(3) IC 9-32-5-11(d).

(4) IC 9-32-5-12.

(b) A person who knowingly or intentionally violates IC 9-32-5-13 commits a Class C misdemeanor.

Sec. 4. A person who knowingly or intentionally violates any of the following commits a Class B misdemeanor:

(1) IC 9-32-8-1.

(2) IC 9-32-8-2.

(3) IC 9-32-8-10.

Sec. 5. A person who knowingly or intentionally violates:

(1) IC 9-32-10-1; or

(2) IC 9-32-10-12;

commits a Class A misdemeanor.

Sec. 6. (a) Except as provided in subsection (b), a person who knowingly or intentionally violates IC 9-32-12 commits a Class B misdemeanor.

(b) A person who knowingly or intentionally violates:

(1) IC 9-32-12-25; or

(2) IC 9-32-12-26;

commits a Class A misdemeanor.

Sec. 7. A person who knowingly or intentionally violates IC 9-32-15-13 commits a Class D felony.

Sec. 8. A dealer who fails to deliver a certificate of origin or title under IC 9-32-4-2 or IC 9-32-4-8 or fails to deliver timely a certificate of title under IC 9-32-3-1(c) is subject to the following

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civil penalties:

(1) One hundred dollars ($100) for the first violation in a calendar year.

(2) Two hundred fifty dollars ($250) for the second violation in a calendar year.

(3) Five hundred dollars ($500) for all subsequent violations in a calendar year.

Payment shall be made to the secretary and deposited in the dealer enforcement account established under IC 9-32-6-2.

Sec. 9. A retail lessor who fails to comply with IC 9-32-11, as set forth in IC 9-32-11-4, is liable to the retail lessee for:

(1) actual damages sustained;

(2) a civil penalty of not more than one thousand dollars ($1,000) per lease transaction; and

(3) reasonable attorney's fees and costs.

Sec. 10. In addition to all other remedies, the secretary may seek the following remedies against a person that violates, attempts to violate, or assists in a violation of or an attempt to violate IC 9-32-15:

(1) An injunction.

(2) Appointment of a receiver or conservator.

(3) A civil penalty not to exceed ten thousand dollars ($10,000) per violation.

(4) An action to enforce a civil penalty assessed under subdivision (3).

Civil penalties recovered under this section shall be paid to the state and deposited into the dealer enforcement account established by IC 9-32-6-2.".

Page 90, delete lines 2 through 42.

Page 91, delete lines 1 through 41.

Page 94, line 37, delete "IC 9-32-11-16." and insert "**IC 9-32-10-16.**".

Page 94, delete lines 40 through 42, begin a new paragraph and insert:

"SECTION 95. IC 24-5-13-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 15. (a) A reasonable number of attempts is considered to have been undertaken to correct a nonconformity if:

(1) the nonconformity has been subject to repair at least four (4) times by the manufacturer or its agents or authorized dealers, but the nonconformity continues to exist; or

(2) the vehicle is out of service by reason of repair of any

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nonconformity for a cumulative total of at least thirty (30) business days, and the nonconformity continues to exist.

(b) The thirty (30) business day period in subsection (a)(2) shall be extended by any period of time during which repair services are not available as a direct result of a strike, **civil unrest, a fire, a natural disaster, a terrorist attack, an act of God, or an act of war.** The manufacturer, its agent, or **an** authorized dealer shall provide or make provision for the free use of a vehicle to any buyer whose vehicle is out of service by reason of repair during a strike, **a period of civil unrest, a fire, a natural disaster, a terrorist attack, an act of God, or an act of war.**

(c) The burden is on the manufacturer to show that the reason for an extension under subsection (b) was the direct cause for the failure of the manufacturer, its agent, or authorized dealer to cure any nonconformity during the time of the event.".

Page 95, delete lines 1 through 2.

Page 96, reset in roman lines 14 through 19.

Page 96, between lines 21 and 22, begin a new line block indented and insert:

"**IC 9-22-5-18 (Concerning buying a motor vehicle without a certificate of title).**".

Page 97, line 18, delete "IC 9-32-17-2" and insert "**IC 9-32-16-2**".

Page 97, line 19, delete "IC 9-32-17-3" and insert "**IC 9-32-16-3**".

Page 97, delete line 20.

Page 97, line 21, delete "IC 9-32-17-5" and insert "**IC 9-32-16-4**".

Page 97, line 22, delete "IC 9-32-17-6" and insert "**IC 9-32-16-5**".

Page 97, line 24, delete "IC 9-32-17-7" and insert "**IC 9-32-16-6**".

Page 97, line 25, delete "IC 9-32-17-8" and insert "**IC 9-32-16-7**".

Page 97, after line 31, begin a new paragraph and insert:

"SECTION 91. [EFFECTIVE JULY 1, 2012] **(a) As used in this SECTION, "board" refers to the motor vehicle sales advisory board established by IC 9-32-10-1.**

(b) As used in this SECTION, "secretary" refers to the secretary of state holding office as set forth in IC 4-5-1-1.

(c) The board shall study the feasibility of creating administrative adjudication processes for the purposes of addressing issues related to persons licensed under IC 9-32-11.

(d) In conducting the study required by this SECTION, the board may consider:

(1) the criteria contained in IC 9-32-10-8(2)(B), IC 9-32-10-8(2)(C), and IC 9-32-10-8(2)(D);

(2) deceptive franchise practices under IC 23-2-2.7; and

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(3) other criteria that the board considers necessary.

(e) In conducting the study required by this SECTION, the board shall consider, as a basis for its deliberation, House Bill 1340 (2012) as introduced.

(f) The board shall report the results of the study required by this SECTION to the legislative council and to the secretary by electronic format under IC 5-14-6 on or before November 1, 2012.

(g) This SECTION expires December 31, 2012.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1222 as introduced.)

SOLIDAY, Chair

Committee Vote: yeas 11, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1222 be amended to read as follows:

Page 9, delete lines 16 through 19.
Page 10, line 7, delete "IC 9-32-1-21." and insert "**IC 9-32-1-20.**".
Page 10, line 33, delete "IC 9-32-1-22." and insert "**IC 9-32-1-21.**".
Page 10, line 37, delete "IC 9-32-1-23." and insert "**IC 9-32-1-22.**".
Page 10, line 41, delete "IC 9-32-1-24." and insert "**IC 9-32-1-23.**".
Page 11, line 3, delete "IC 9-32-1-25." and insert "**IC 9-32-1-24.**".
Page 11, line 16, delete "IC 9-32-1-26." and insert "**IC 9-32-1-25.**".
Page 11, line 23, delete "IC 9-32-1-27." and insert "**IC 9-32-1-26.**".
Page 11, line 27, delete "IC 9-32-1-28." and insert "**IC 9-32-1-27.**".
Page 11, line 33, delete "IC 9-32-1-29." and insert "**IC 9-32-1-28.**".
Page 11, line 39, delete "IC 9-32-1-30." and insert "**IC 9-32-1-29.**".
Page 27, delete lines 19 through 23.
Page 27, line 24, delete "21." and insert "**20.**".
Page 27, line 34, delete "22." and insert "**21.**".
Page 28, line 14, delete "23." and insert "**22.**".
Page 28, line 17, delete "24." and insert "**23.**".
Page 28, line 22, delete "25." and insert "**24.**".
Page 28, line 25, delete "26." and insert "**25.**".
Page 28, line 27, delete "27." and insert "**26.**".
Page 28, line 31, delete "28." and insert "**27.**".

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Page 28, line 35, delete "29." and insert "**28.**".

Page 28, line 38, delete "30." and insert "**29.**".

Page 36, line 15, delete "motor vehicles" and insert "**license plates**".

Page 36, line 17, after "(2)" insert "**displayed on vehicles**".

Page 43, line 3, delete "nine (9)" and insert "**eleven (11)**".

Page 43, between lines 25 and 26, begin a new line block indented and insert:

"**(7) One (1) member must represent boat dealers.**

(8) One (1) member must represent the recreational vehicle industry.".

Page 43, line 26, delete "five (5)" and insert "**six (6)**".

Page 44, line 7, delete "Six (6)" and insert "**Seven (7)**".

Page 45, between lines 14 and 15, begin a new line blocked left and insert:

"**An application for a wholesale dealer license must contain the additional information required in section 2.3 of this chapter.**".

Page 46, between lines 9 and 10, begin a new paragraph and insert:

"**Sec. 2.3. In addition to the requirements of section 2 of this chapter, a license application for a wholesale dealer must contain the following:**

(1) A:

(A) copy of a written lease that has a term of not less than one (1) year; or

(B) copy of a deed for the property on which the wholesale dealer intends to conduct business.

(2) If the application is the initial application, photographs of the established place of business. The photographs must include, but are not limited to the:

(A) major exterior advertising sign; and

(B) display and office building.

Sec. 2.5. A wholesale dealer that has been issued a license under this chapter must maintain the following standards for the license to remain valid:

(1) A conspicuous permanent sign with letters not less than six (6) inches high bearing:

(A) the business name of the wholesale dealer; and

(B) the hours of operation of the wholesale dealer;

must be located in the interior of the established place of business of the wholesale dealer.

(2) The office of the wholesale dealer must be:

(A) housed at the established place of business of the wholesale dealer;

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(B) not less than one hundred (100) square feet; and

(C) served with utilities such as electricity, lighting, heat, and a landline business telephone exclusively for the use of the wholesale dealer.

(3) The wholesale dealer or an employee of the wholesale dealer must be present for the purposes of inspection of records at the established place of business of the wholesale dealer during the posted hours of operation of the business of the wholesale dealer.

(4) All business records of the wholesale dealer must be kept at the licensed place of business of the wholesale dealer.".

Page 56, delete lines 25 through 27, begin a new line block indented and insert:

"**(1) fail to pay a claim made by a dealer for compensation for:**

(A) delivery and preparation work;

(B) warranty work; and

(C) incentive payments;

not later than thirty (30) days after the claim is approved;".

Page 85, delete lines 35 through 42, begin a new paragraph and insert:

"SECTION 82. [EFFECTIVE JULY 1, 2012] **(a) As used in this SECTION, "committee" refers to the joint study committee on transportation and infrastructure assessment and solutions established by IC 2-5-28.5-2.**

(b) As used in this SECTION, "secretary" refers to the secretary of state holding office as set forth in IC 4-5-1-1.

(c) The committee shall study the feasibility of creating administrative adjudication processes for the purpose of addressing issues relating to persons licensed under IC 9-32-10.

(d) In conducting the study required by this SECTION, the committee may consider:

(1) the criteria contained in IC 9-32-9-8(2)(B), IC 9-32-9-8(2)(C), and IC 9-32-9-8(2)(D);

(2) deceptive franchise practices under IC 23-2-2.7; and

(3) other criteria that the committee considers necessary.

(e) In conducting the study required by this SECTION, the committee shall consider, as a basis for its deliberation, House Bill 1340 (2012) as introduced.

(f) The committee shall report the results of the study required by this SECTION to the legislative council and to the secretary in an electronic format under IC 5-14-6 on or before November 1, 2012.".

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Page 86, delete lines 1 through 12.
Renumber all SECTIONS consecutively.

(Reference is to HB 1222 as printed January 27, 2012.)

YARDE

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1222, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 7, line 10, delete "IC 9-32-13," and insert "**IC 9-32-12,**".
Page 24, line 22, after "vehicle" insert "**sales**".
Page 24, line 26, delete "six (6)" and insert "**three (3)**".
Page 29, line 42, delete "3" and insert "**2**".
Page 31, line 21, delete "section 2(a)(5)(C)" and insert "**section 1(a)(5)(C)**".
Page 36, line 8, delete "vehicles" and insert "**a vehicle being**".
Page 36, line 8, delete "to or from an address" and insert "**for purposes of sale by a licensed Indiana dealer.**".
Page 36, delete line 9.
Page 46, line 34, delete "landline".
Page 51, line 1, delete "before" and insert "**after**".
Page 65, line 22, delete "not public" and insert "**confidential**".
Page 68, line 7, after "article" insert "**, or its predecessor,**".
Page 68, line 14, after "article" insert "**, or its predecessor,**".
Page 78, line 13, after "compliance" insert "**or noncompliance**".
Page 80, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 77. IC 23-17-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The secretary of state may commence a proceeding under section 2 of this chapter to administratively dissolve a corporation if the following occur:

(1) The corporation does not pay within sixty (60) days after they are due any taxes or penalties imposed by this article or other law.
(2) The corporation does not deliver the corporation's annual report to the secretary of state within sixty (60) days after the report is due.
(3) The corporation is without a registered agent or registered office in Indiana for at least sixty (60) days.

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(4) The corporation does not notify the secretary of state within sixty (60) days that the corporation's:

(A) registered agent or registered office has been changed;

(B) registered agent has resigned; or

(C) registered office has been discontinued.

(5) The corporation's period of duration, if any, stated in the corporation's articles of incorporation expires.

(6) The secretary receives credible evidence that the corporation is engaged in:

(A) illegal activity; or

(B) activity not authorized by the corporation's articles of incorporation.".

Page 86, line 28, delete "[EFFECTIVE JULY 1, 2012] (a) As used in this" and insert "**An emergency is declared for this act.**".

Page 86, delete lines 29 through 42.

Delete page 87.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1222 as reprinted January 31, 2012.)

BRAY, Chairperson

Committee Vote: Yeas 10, Nays 0.

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